Agenda – Council – October 19, 2011

Report – Executive Policy Committee – October 12, 2011

Item No. 5 Rezoning – 590 Corydon Avenue
(Fort Rouge – East Fort Garry Ward)
File DAZ 215/2011

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 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 planned area as shown on Schedule "A" for File DAZ 215/2011 dated September 27, 2011, to a "C2" Commercial Corridor 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 are prohibited and not allowed as permitted, conditional, accessory, or temporary uses:

            a. Advertising sign;
            b. Amusement enterprise, outdoor;
            c. Auto/light truck/motorcycle, repair and service;
            d. Car wash;
            e. Drive-in or drive-through;
            f. Fleet services;
            g. Kennel;
            h. Pawnshop;
            i. Supermarket.

        ii. That the following uses may only be approved as conditional uses:

            a. Auto/light truck/motorcycle, sales and rental;
            b. Drinking establishment;
            c. Fuel sales;
            d. Hotel or motel.

iii. That the following uses are limited to the specified amount of gross floor area per building:

a. Amusement enterprise, indoor: 2,500 square feet;
b. Medical/dental/optical counselling clinic: 5,000 square feet;
c. Restaurant: 2,500 square feet;
d. Retail sales: 5,000 square feet;
e. Studio, radio/TV/motion picture broadcast and production: 5,000 square feet;
f. Personal services: 5,000 square feet.

iv. That illuminated signs shall only be allowed in the front yard of the planned area or on the front façade of the proposed building.

v. That no freestanding sign shall exceed a height of eight (8) feet.

vi. That, for the development of any building, accessory parking or loading area, private approach, garbage enclosure, landscaping, fencing, lighting, walkway or signage, plans, showing the locations and designs of any proposed building, accessory parking or loading area, private approach, garbage enclosure, landscaping, fencing, lighting, walkway and signage, must be submitted to the Director of Planning, Property and Development for approval prior to the issuance of any development or building permit, and thereafter all to be developed in accordance with the approved plans and maintained to the satisfaction of the Director of Planning, Property and Development.

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.

Agenda – Council – October 19, 2011

Report – Executive Policy Committee – October 12, 2011

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 planned area, provided that the said effective date occurs within one year of 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.

Report – Executive Policy Committee – October 12, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE:

On October 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 October 5, 2011, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted the matter to the Executive Policy Committee.

RE: **Rezoning – 590 Corydon Avenue**
File DAZ 215/2011

For submission to: **Executive Policy Committee**

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

Report date: **October 6, 2011**

COMMUNITY COMMITTEE RECOMMENDATION:

On October 6, 2011, 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. 200/2006 be amended by rezoning the planned area as shown on Schedule "A" for File DAZ 215/2011 dated September 27, 2011, to a "C2" Commercial Corridor 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 are prohibited and not allowed as permitted, conditional, accessory, or temporary uses:

            a. Advertising sign;
            b. Amusement enterprise, outdoor;
            c. Auto/light truck/motorcycle, repair and service;
            d. Car wash;
            e. Drive-in or drive-through;
            f. Fleet services;
            g. Kennel;
            h. Pawnshop;
            i. Supermarket.

        ii. That the following uses may only be approved as conditional uses:

            a. Auto/light truck/motorcycle, sales and rental;
            b. Drinking establishment;
            c. Fuel sales;
            d. Hotel or motel.

iii. That the following uses are limited to the specified amount of gross floor area per building:

a. Amusement enterprise, indoor: 2,500 square feet;
b. Medical/dental/optical counselling clinic: 5,000 square feet;
c. Restaurant: 2,500 square feet;
d. Retail sales: 5,000 square feet;
e. Studio, radio/TV/motion picture broadcast and production: 5,000 square feet;
f. Personal services: 5,000 square feet.

iv. That illuminated signs shall only be allowed in the front yard of the planned area or on the front façade of the proposed building.

v. That no freestanding sign shall exceed a height of eight (8) feet.

vi. That, for the development of any building, accessory parking or loading area, private approach, garbage enclosure, landscaping, fencing, lighting, walkway or signage, plans, showing the locations and designs of any proposed building, accessory parking or loading area, private approach, garbage enclosure, landscaping, fencing, lighting, walkway and signage, must be submitted to the Director of Planning, Property and Development for approval prior to the issuance of any development or building permit, and thereafter all to be developed in accordance with the approved plans and maintained to the satisfaction of the Director of Planning, Property and Development.

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.

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 planned area, provided that the said effective date occurs within one year of 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 property has been function as a commercial site.

2. There are controls in place with the PDO keeping the proposal from getting out of hand.

PUBLIC HEARING SUMMARY

File: DAZ 215/2011

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

Public Hearing: October 5, 2011
North Committee Room
Council Building, 510 Main Street

Applicant: Café Express Platea (Misun Lee)

Subject:



Premises Affected: 590 Corydon Avenue

Exhibits Filed:

1. Application dated July 22, 2011
2. Notification of Public Hearing dated August 18, 2011
3. Manitoba Status of Title 2236486
4. Letter of authorization dated June 9, 2011 from Kyung Sook Kim to Misun Lee
5. Surveyor's Building Location Certificate and sketch dated June 22, 2011

6. Variance Order DAV 613/97C
7. Plan (1 page)
8. Report from the Planning and Land Use Division dated September 27, 2011
9. Inspection Report
10. Audio Recording of representations

REPRESENTATIONS:

In Support:

Mi Sun Lee
Harry Yuen

In Opposition:

Nil

For Information:

Mark Head

For the City:

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

Exhibit "8" referred to in File DAZ 215/2011

ADMINISTRATIVE REPORT

Title: DAZ 215/2011 – 590 Corydon Avenue

Issue: Application to rezone the subject property from an "RMF-M" Residential Multiple Family District to a "C2" Commercial Corridor District to permit the maintenance of an existing restaurant

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**
Patti Regan	n/a	n/a	n/a

RECOMMENDATIONS

1. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the planned area as shown on Schedule "A" for File DAZ 215/2011 dated September 23, 2011, to a "C2" Commercial Corridor 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. The following uses are prohibited and not allowed as permitted, conditional, accessory, or temporary uses:

         a. Advertising sign
         b. Amusement enterprise, outdoor
         c. Auto/light truck/motorcycle, repair and service
         d. Car wash
         e. Drive-in or drive-through
         f. Fleet services
         g. Kennel
         h. Pawnshop
         i. Supermarket

      ii. The following uses may only be approved as conditional uses:

         a. Auto/light truck/motorcycle, sales and rental
         b. Drinking establishment

c. Fuel sales

d. Hotel or motel

iii. The following uses are limited to the specified amount of gross floor area per building:

a. Amusement enterprise, indoor: 2,500 square feet

b. Medical/dental/optical counseling clinic: 5,000 square feet

c. Restaurant: 2,500 square feet

d. Retail sales: 5,000 square feet

e. Studio, radio/TV/motion picture broadcast and production: 5,000 square feet

f. Personal services: 5,000 square feet

iv. That illuminated signs shall only be allowed in the front yard of the planned area or on the front façade of the proposed building.

v. That no freestanding sign shall exceed a height of eight (8) feet.

vi. That, for the development of any building, accessory parking or loading area, private approach, garbage enclosure, landscaping, fencing, lighting, walkway or signage, plans, showing the locations and designs of any proposed building, accessory parking or loading area, private approach, garbage enclosure, landscaping, fencing, lighting, walkway and signage, must be submitted to the Director of Planning, Property and Development for approval prior to the issuance of any development or building permit, and thereafter all to be developed in accordance with the approved plans and maintained to the satisfaction of the Director of Planning, Property and Development.

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.

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 planned area, provided that the said effective date occurs within one year of 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 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 property will 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 27, 2011
File No.	DAZ 215/2011

APPENDIX 'A'

DATE: September 27, 2011
FILE: DAZ 215/2011
RELATED FILES: N/A
COMMUNITY: City Centre Community
NEIGHBOURHOOD #: 1.106

SUBJECT: To rezone the subject land from an "RMF-M" Residential Multiple Family District to a "C2" Commercial Corridor District

LOCATION: 590 Corydon AVENUE
LEGAL DESCRIPTION: SP Lot 8, Plan 27643



APPLICANT: Café Express Platea
590 Corydon Avenue
WINNIPEG MB R3L 0P2

OWNER: Kyung Sook Kim

RECOMMENDATION: Approval

SITE DESCRIPTION
The subject property zoned "RMF-M" Residential Multiple Family District is located on Corydon Avenue, between Daly and Nassau Streets, in the Earl Grey neighbourhood of the Fort Rouge East Fort Garry ward.

North: Residences zoned "RMFM" Residential Multiple Family District
South: Residence zoned "R1s" Residential Single Family District
East: Residences zoned "RMFM" Residential Multiple Family District
West: Residences zoned "RMFM" Residential Multiple Family District

BACKGROUND
The subject property received a use variance in 1997 which allowed the establishment of a restaurant without rezoning the property. The use variance included six conditions.

1. That the development be in accordance with plans submitted and identified as Exhibit "7" to File No. DAV 613/97C
2. The the variance be granted for the life of the building
3. That parking be provided for three (3) vehicles
4. That permanent restaurant seating be limited to thirty-two (32) seats
5. That the restaurant remain non-licensed with no frying or grilling permitted on the premises
6. That if any variance granted by this Order is not established within two (2) years of the date hereof, this Order, in respect of that variance, shall terminate

The applicant seeks approval to have these conditions removed, so that they may fry and grill food, establish a small patio, and be licensed.

At this time, given that the applicant seeks to intensify a use which was established under a use variance, the Winnipeg Public Service requested that the property be rezoned, to accurately reflect the existing land use.

If the rezoning is approved, the use variance, and its conditions, can be terminated.

DESCRIPTION OF THE PROPOSED DEVELOPMENT
The existing site is zoned "RMF-M" Residential Multiple-Family District and is presently being used as a restaurant.

The intent of the rezoning is to terminate previous conditions that were applied under a use variance and are onerous to the operation of the restaurant. (see Background) This would allow the restaurant to establish a small patio, to serve alcohol with food, and to fry and grill food.

ANALYSIS AND ISSUES
A. Context
The subject block of Corydon Avenue, which is between Daly and Nassau Street, includes a mix of residential and commercial uses, although the block is primarily residential at this time. Properties on the block which are currently zoned "C2" Commercial are shown in red on the map is Figure 2

B. Policies
OurWinnipeg (Complete Communities Direction Strategy)
Corydon Avenue is identified as a community mixed use corridor. Community mixed use corridors act as "main streets" for one or more neighbourhoods. In order to accommodate the city's anticipated increase in residential, commercial, and employment densities, Community Mixed Use Corridors will experience a fairly significant amount of change: including the enhancement of existing corridors, like Corydon Avenue.

By encouraging more compatible mixed use, the proposed rezoning complies with Complete Communities.

C. Corydon Osborne Neighbourhood Plan

The City is currently developing a Secondary Plan for Corydon Avenue and surrounding neighbourhoods. The Secondary Plan will provide the opportunity to promote mixed-use redevelopment in a context sensitive manner, to proactively address the pressures for growth and change that will occur in the neighbourhood and additionally due to the presence of the rapid transit corridor, to identify and prioritize appropriate infrastructure upgrades and improvements to facilitate this growth, and to promote more sustainable forms of development and urban form and the concepts of sustainability.

The City has completed initial consultations with the community to determine the plan vision and key issues for the area. The next step in this process will be the development of a plan draft and further public consultation to present the draft plan for public consultation and feedback.

One of the items that the plan will address are issues of appropriate land use, density, and built form along the Corydon community mixed use corridor.

The subject rezoning is not out of step with the initial feedback received during the consultation process; namely that Corydon Avenue should function as a mixed use corridor from Confusion Corner to Harrow Avenue.

Use variance

The current conditions from the use variance are extremely onerous and not required, given that Corydon Avenue is a mixed use corridor.

With that said, in light of the fact that Corydon Avenue is governed by a Planned Development Overlay (PDO-1 Neighbourhood Main Street), it is appropriate for the subject property to also be governed by the same requirements as the PDO.

However, given that the subject property is not within the current PDO boundaries, the PDO conditions do not automatically apply.

One option to address this is that the Winnipeg Public Service could make application to amend the PDO boundaries to include this property. However, given that the boundaries are likely to change at the completion of the Corydon Osborne Neighbourhood Plan, this is not recommended.

A second option is to include a zoning agreement which replicates the PDO-1 Neighbourhood Main Streets. With this option, the subject property will have the same regulations as commercial properties on Corydon Avenue which are subject to the PDO-1. This is the recommended course of action.

RECOMMENDATIONS

The Planning and Land Use Division recommends approval for the following reasons:

- The proposed use is not a significant change in the function or intensity of use that is occurring on the property.
- The proposed rezoning is a better reflection of the existing land use.
- The rezoning is compatible with the area and will not have an adverse impact on adjoining properties.

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

Report Prepared by: Michael Robinson, AICP
PPD File # DAZ 230/2010

APPENDIX "B"
Schedule "A" for File No. DAZ 215/2011, City Centre Community Committee, dated September 27, 2011

By-Law No. _____

File No. **DAZ 215/11**

Atlas Sheet No.

N

AC24
CITY CENTRE
COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 590 Corydon Avenue from an "RMF-M" RESIDENTIAL MULTI-FAMILY DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to permit the maintenance of an existing restaurant as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____



Figure 1: Aerial Photo (Flown in 2009)

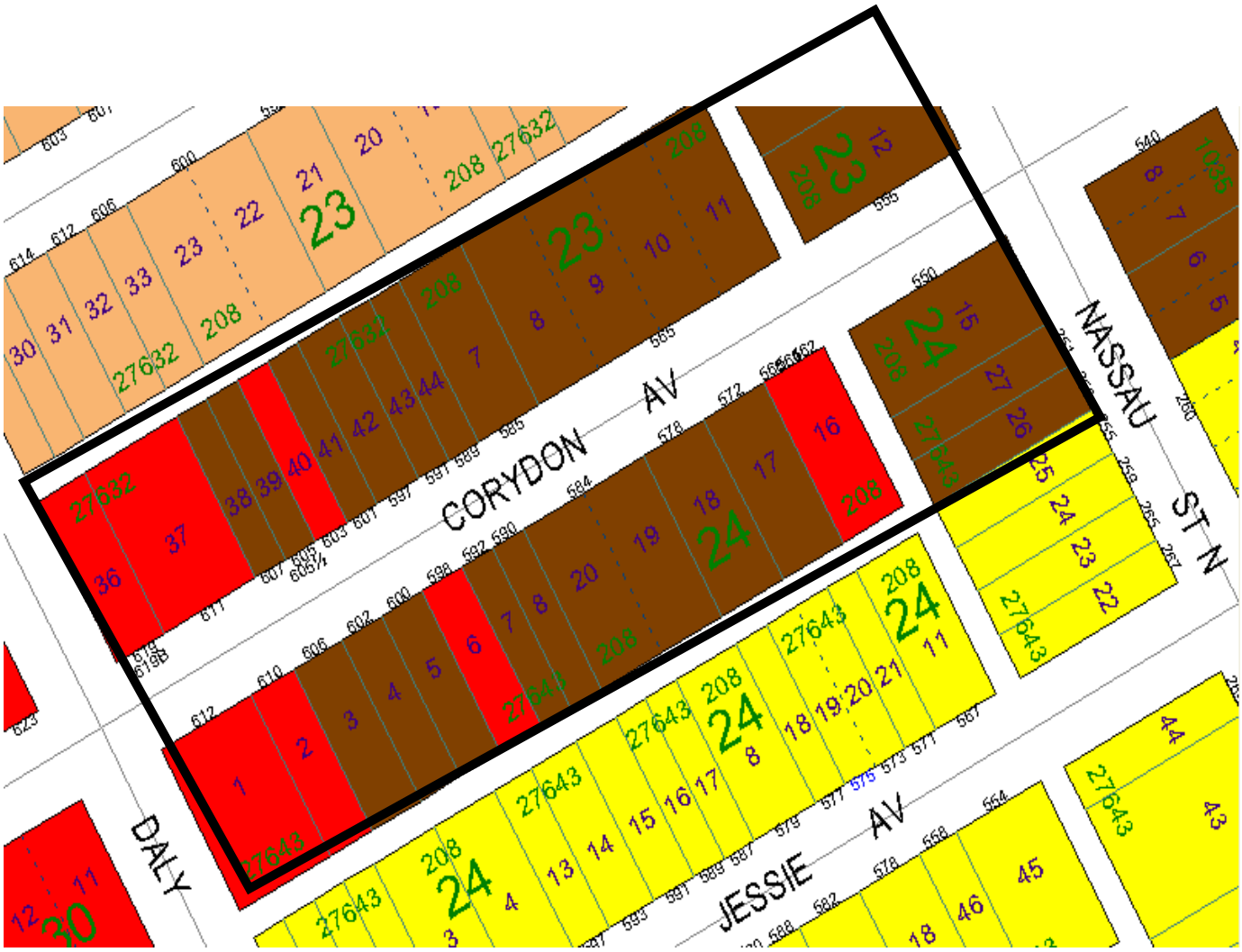

Figure 2: Zoning Map of subject block

Exhibit "6" referred to in File DAZ 215/2011

RW

The City of Winnipeg

VARIANCE ORDER

BOARD OF ADJUSTMENT

DAV 613/97C

APPLICANT:	Lynda Walker 6129 Betsworth Avenue Winnipeg, Manitoba R3R 0J9
PREMISES AFFECTED:	590 Corydon Avenue, south side east of Daly Street
LEGAL DESCRIPTION:	SP Lot 8, Plan 27643, hereinafter called "the land".
PROPERTY ZONED:	proposed "C1.5"
ZONING ATLAS SHEET:	AC24 (SM)
NATURE OF APPLICATION:	To vary the "RM4" district regulations of Zoning By-law No. 6400/94 for a change of use for a period to be determined by the Board of Adjustment to permit the establishment of a restaurant in an existing residential building to permit no additional parking spaces instead of fifteen (15) additional parking spaces.

It is the opinion of the Board of Adjustment that subject to conditions listed below, if any, this order meets the statutory criteria of The City of Winnipeg Act in that it:

(a) is consistent with Plan Winnipeg and Zoning By-law No. 6400/94;

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area; and

(c) is the minimum variation of Zoning By-law No. 6400/94 required to relieve the injurious effect of said Zoning By-law No. 6400/94 on the applicant's property.

C.W. Act section 608(1)

ORDER:

The Board of Adjustment orders that the provisions of the "RM-4" district regulations of Zoning By-law No. 6400/94 and amendments thereto are varied TO PERMIT on "the land" a restaurant in an existing residential building, subject to the following conditions which the Board of Adjustment considers necessary to ensure compliance with (a), (b) and (c) above, namely:

1. That the development be in accordance with plans submitted and identified as Exhibit "7" to File No. DAV 613/97C.

2. That the variance be granted for the life of the building.

3. That parking be provided for three (3) vehicles.

4. That permanent restaurant seating be limited to thirty-two (32) seats.

. . . /2

5. That the restaurant remain non-licensed with no frying or grilling permitted on the premises.

6. That, if any variance granted by this Order is not established within two (2) years of the date hereof, this Order, in respect of that variance, shall terminate.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

DATE OF ORDER: September 19, 1997.

CERTIFIED BY:

Diane Timmins,
Acting Secretary to the Board

(Variance requested has been modified)

HOW TO APPEAL

You may appeal against either the whole of this order or part(s) of it by filing a letter of appeal. This appeal will be heard by the Committee on Planning and Community Services. That letter must:

(a) be addressed as set out below,

(b) be received at that office not later than 4:30 p.m. on October 3, 1997, [IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(c) refer to Variance Order No. DAV 613/97C, give brief reasons and describe whether you appeal the whole order or only part(s) of it.

You can attend the appeal hearing and speak on issues raised in someone else's appeal, but the appeal committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address: City Clerk
City of Winnipeg
c/o 5th Floor
Dynasty Building
180 King Street
Winnipeg, Manitoba
R3B 3G8
[FAX 986-6634 - please follow up
with the original of any faxed
letter of appeal]

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

IN SUPPORT:

Mavis Kolodie and Lynda Walker, 6129 Betsworth Avenue, Winnipeg, Mb R3R 0J9

IN OPPOSITION:

Nil