Agenda – Council – October 19, 2011

Report – Standing Policy Committee on Property and Development – October 4, 2011

Item No. 8 Zoning Agreement Amendment – 50 Stafford Street
(River Heights-Fort Garry Ward)
File ZAA 8/2011

STANDING COMMITTEE RECOMMENDATION:

On October 12, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, did not concur in the recommendation of the City Centre Community Committee, and submits the following to Council:

1. That the Zoning Agreement Caveat No. 94 -1863214 under File DAZ 210/94 dated July 20, 1994 (By-law No. 6516/94) be amended for the subject property as follows:

    A. Amend Clause 2 as follows: "That land and any building or structure on it shall not be used, and no building or structure shall be erected, altered or enlarged on the land, for any use except

        i. Business or professional offices

        ii. Jewellery Store - defined as an establishment engaged in the retail sales and accessory manufacturing of jewellery"

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 210/94 (By-law No. 6516/94), dated July 20, 1994 as approved in Recommendation No. 1.

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 – October 4, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 12, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, did not concur in the recommendation of the City Centre Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 4, 2011, the Standing Policy Committee on Property and Development did not concur in the recommendation of the City Centre Community Committee and recommended to the Executive Policy Committee and Council:

1. That the Zoning Agreement Caveat No. 94 -1863214 under File DAZ 210/94 dated July 20, 1994 (By-law No. 6516/94) be amended for the subject property as follows:

    A. Amend Clause 2 as follows: "That land and any building or structure on it shall not be used, and no building or structure shall be erected, altered or enlarged on the land, for any use except

        i. Business or professional offices

        ii. Jewellery Store - defined as an establishment engaged in the retail sales and accessory manufacturing of jewellery"

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 210/94 (By-law No. 6516/94) dated, July 20, 1994 as approved in Recommendation No. 1.

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 – October 4, 2011

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2011, the City Centre Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended that the application for zoning agreement amendment under File ZAA 8/2011 be rejected, and forwarded the matter to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment – 50 Stafford Street**
File ZAA 8/2011

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

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

Report date: **September 14, 2011**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2011, the City Centre Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development that the application for zoning agreement amendment under File ZAA 8/2011 be rejected. The City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. The property was purchased knowing there was a caveat.

2. Allowing a rezoning is irresponsible as this neighbourhood needs more protection at this time than the by-law permits under the "C1" Commercial District.

PUBLIC HEARING SUMMARY

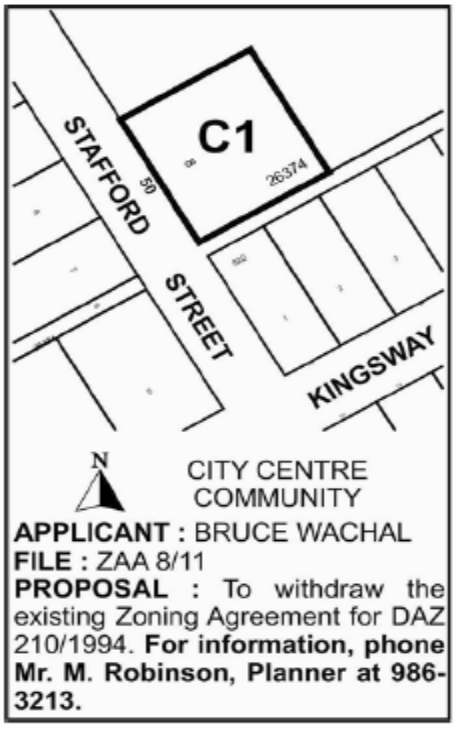
File: ZAA 8/2011

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

Public Hearing: September 13, 2011
North Committee Room
Council Building, 510 Main Street

Applicant: Bruce Wachal Holdings Ltd.

Subject:



Premises Affected: 50 Stafford Street

Exhibits Filed:

1. Application dated June 20, 2011
2. Notification of Public Hearing dated July 5, 2011
3. Manitoba Status of Title 1734108
4. Caveat 1863214
5. Letter of authorization dated May 25, 2011 from Canadian Corps of Commissionaires (Manitoba and North-Western Ontario Division) to Bruce Wachal Holdings Ltd.
6. Plans (2 pages)

7. Report from the Planning and Land Use Division dated August 19, 2011
8. Inspection Report
9. Presentation in opposition to the application, submitted by Christine Skene and Nick Logan
10. Presentation in opposition to the application, submitted by Tim Smith
11. Presentation in opposition to the application, submitted by Richard M. Leipsic
12. Communication from Darcy Dornn, dated September 9, 2011, in opposition to the application submitted by Richard Leipsic at the public hearing
13. Communication from Roger Morcilla, dated September 11, 2011, in opposition to the application, submitted by Richard Leipsic at the public hearing
14. Communication from Pamela Katz and Garry Finkleman, dated September 10, 2011, in opposition to the application, submitted by Richard Leipsic at the public hearing
15. Communication from Jeffery Bresler, dated September 10, 2011, in opposition to the application, submitted by Richard Leipsic at the public hearing
16. Sketches (6) of subject property, in support of the application, submitted by Bruce Wachal
17. Audio Recording of representations

REPRESENTATIONS:

In Support:

Waldy Derksen
Mohan Tenuwara
Bruce Wachal, Bruce Wachal Holdings Ltd.

In Opposition

Jeffrey Bresler
Darcy Dornn
Pamela Katz and Gary Finkleman
Richard Leipsic
Roger Morcilla
Christine Skene and Nick Logan
Tim Smith

For Information:

Nil

For the City:

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

Exhibit "7" referred to in File ZAA 8/2011

ADMINISTRATIVE REPORT

Title: ZAA 8/2011 – 50 Stafford St

Issue: For consideration at the public hearing to remove an existing zoning agreement

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 Zoning Agreement Caveat 94-1863214 under File DAZ 210/94 dated July 20, 1994 (By-Law No. 6516/94), be withdrawn and replaced with a new Zoning Agreement as follows:

    A. That the following use shall not be permitted as a principal use on the subject property: Contractor's establishment.

    B. That the maximum permitted sign surface area on the subject property shall be 48 square feet.

    C. That there shall be no advertising signs, electronic message centre 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 upon issuance of a new occupancy permit.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 210/94 (By-Law No. 6516/94) 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 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 intends to withdraw an existing zoning agreement on the subject property that restricts all permitted uses to business or professional offices and that limits the maximum sign surface area on the land to 28 square feet.
- The site is occupied by a one storey stucco and brick building housing an office for the Canadian Corps of Commissionaires.
- In the absence of a zoning agreement, any future development on the site would be regulated by the provisions in Zoning By-law No. 200/06 for the “C1” Commercial Neighbourhood district.

IMPLICATIONS OF THE RECOMMENDATIONS

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

CONSULTATION

In preparing this report there was consultation with:

N/A

SUBMITTED BY

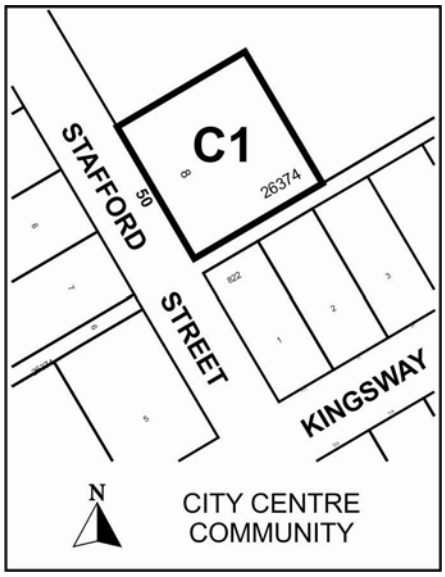
Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	Michael Pyl
Date:	August 19, 2011
File No.	ZAA 8/2011

APPENDIX 'A'

DATE: August 19, 2011
FILE: ZAA 8/2011
RELATED FILES:
COMMUNITY: City Centre
NEIGHBOURHOOD #: 1.601

SUBJECT: The applicant would like to remove the existing zoning agreement that restricts all permitted uses to business or professional offices and that limits the maximum sign surface area on the land to 28 square feet.

LOCATION: 50 Stafford St



APPLICANT: Bruce Wachal Holdings Ltd
378 Wallace Av
East St. Paul, MB R2E 0B2

OWNER: Canadian Corps of Commissionaires

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant intends to withdraw an existing zoning agreement on the subject property that restricts all permitted uses to business or professional offices and that limits the maximum sign surface area on the land to 28 square feet.
- The site is occupied by a one storey stucco and brick building housing an office for the Canadian Corps of Commissionaires.

- In the absence of a zoning agreement, any future development on the site would be regulated by the provisions in Zoning By-law No. 200/06 for the “C1” Commercial Neighbourhood district.

SITE DESCRIPTION

- The subject property is located on the east side of Stafford St between Academy Rd and Kingsway in the Crescentwood neighbourhood of the River Heights – Fort Garry ward.
- The site is 144 ft. wide, 140 ft. deep, and 20,160 sq. ft. in area. It is currently occupied a one storey stucco and brick building housing an office for the Canadian Corps of Commissionaires, as well as an accessory paved parking lot. The site is zoned “C1” Commercial Neighbourhood district.
- Adjacent properties include St. Mary’s Academy to the north and east zoned “R1-M” Residential Single Family district, single family dwellings to the south zoned “R1-L” Residential Single Family district, and Kelvin High School to the west across Stafford zoned “PR3” Parks and Recreation – Regional/Citywide district.



Figure 1: Site map of subject property and surrounding neighbourhood

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant intends to withdraw the existing zoning agreement on the subject property. This zoning agreement requires that:
    - The land not be used for any use except business or professional offices.
    - The maximum sign surface area permitted on the land shall be 28 sq. ft.
- The applicant intends to construct a 12 ft. by 12 ft. vestibule addition on the front of the building as well as minor interior alterations. These renovations are intended to accommodate a new tenant – a jeweler with a 30 ft. by 30 ft. showroom.

BACKGROUND

DAZ 210/94

- In 1994, Council approved a rezoning from a residential single family zoning district to a "C1" commercial district. Prior to this rezoning, the subject property was limited to an office use solely for an educational institution. The rezoning was requested to permit a broader category of office uses to facilitate the sale of the property.
- A zoning agreement was established that requires:
    - That the land and any buildings or structures on it shall not be used, and no building or structure shall be erected, altered, or enlarged on the land, for any use **except business or professional offices**.
    - The maximum sign surface area permitted on the land shall be 28 square feet.
    - No new building, including additions to the existing building, shall be erected or located on the land and no building permit issued for construction on the land unless and until the plans including the location and design of the proposed buildings, parking lot development, fencing, and landscaping are submitted to and approved by the City Centre Community Committee and the Commissioner of Planning and Community Services and thereafter identified by the signature of that Commissioner under the designation "Schedule A" to Zoning Agreement DAZ 210/94 and no buildings, structures, or works shall be constructed or placed on the land except in accordance with that Schedule "A" and any amendments to that schedule or this agreement.
- It also included a provision requiring the paving of its gravel parking lot.

DAV 184/87

- In 1987, the City Centre Community Committee approved an application to vary the "R1" regulations of Zoning By-law No. 16502 to permit the establishment of an Office, Business or Professional (for the administration of an educational institution – Manitoba Institute of Management) in an existing building (former church administration offices).
    - It was approved on the condition that the variance order shall remain in force and effect until said use vacates the subject premises, then the variance shall cease to have effect.

ANALYSIS AND ISSUES

OurWinnipeg and Complete Communities Direction Strategy

- The Complete Communities Direction Strategy is one of four direction strategies supporting OurWinnipeg, the city's new long-range development plan, and is intended to gain statutory authority as a secondary plan. The strategy is intended to serve as a "playbook" to guide land use and development in Winnipeg. It received third reading at City Council on July 20, 2011, and became effective on August 17, 2011.
- The subject property is classified as a "Mature Community" is Complete Communities' Urban Structure map. These areas are defined by a grid road network with back lanes and sidewalks, older housing stock in the form of low to moderate densities and a finer mix of land uses along many of the commercial streets.
- Policy directions for Mature Communities include:
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complementary to the existing scale, character, and built form.
    - Encourage intensification to occur at centres and along corridors.
    - Support a mix of commercial services and employment uses that serve the local community.

Zoning

- 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.

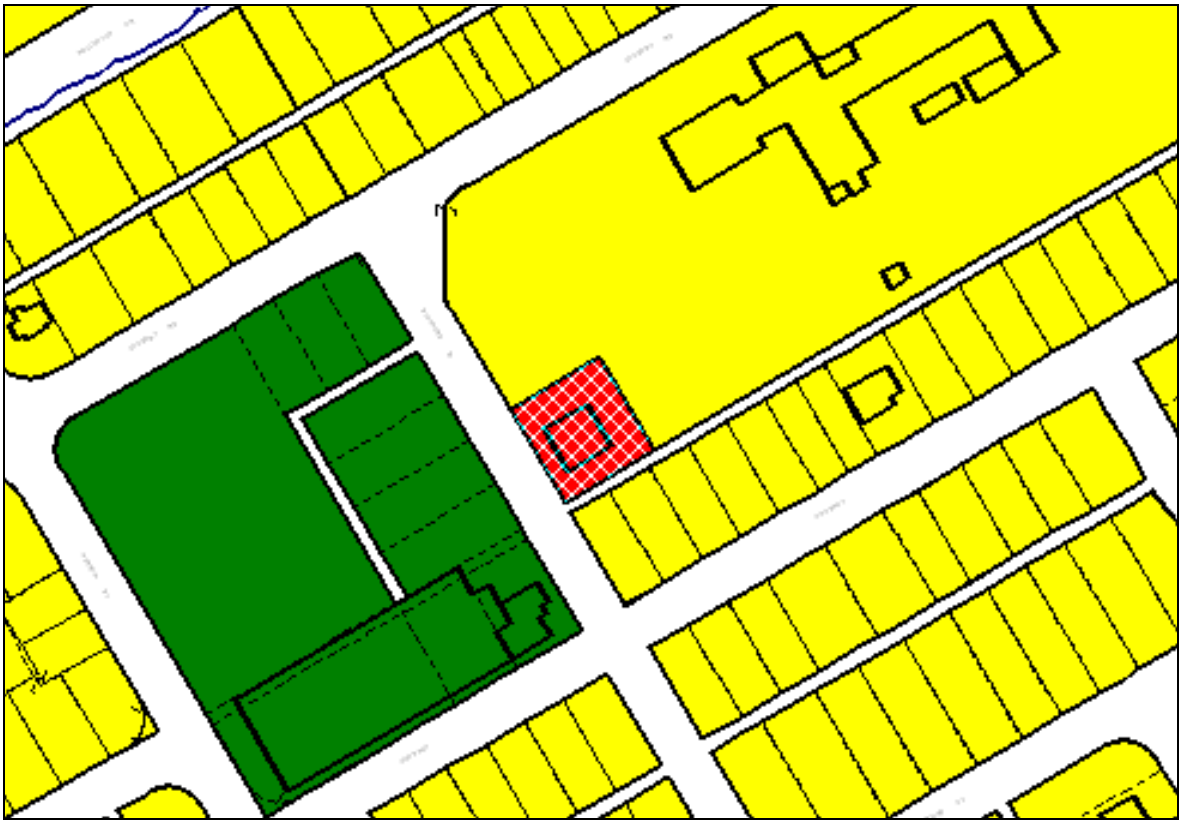


Figure 2: Zoning map of subject property and surrounding neighbourhood

- Section 62 of Zoning By-law No. 200/06 prescribes all permitted principal uses in each zoning district. In the "C1" district, the following uses are permitted:

Permitted	Conditional
Dwelling, single family detached	Dwelling, live-work
Dwelling, two family	Dwelling, multi-family
Care home	Assisted living facility
Neighbourhood rehabilitation home	Community/recreation centre
Single room occupancy	Social service facility
Library	Boat dock, public access
Post office/carrier depot	Place of worship
Protection and emergency services	Hostel
Community gardens	Hotel or motel
Park/plaza/square/playground	Transit station
Day care centre	
Gallery/museum	
Animal hospital or veterinary clinic	
Kennel	
Restaurant	
Office	
Personal services	
Medical/dental/optical/counseling clinic	
Retail sales	
Utility facility, minor	
Contractor's establishment	

Figure 3: All permitted and conditional uses in the "RMF-L" district

- The principal uses permitted in the "C1" district are further regulated by controls found in the Use-Specific Standards section of the zoning by-law. For example:
    - As per Section 92, restaurants in the "C1" district are limited to 2,500 sq. ft. of gross floor area and are not permitted to have drive-thru facilities.
    - As per Section 87, office uses are limited to a maximum of 5,000 sq. ft. of gross floor area.
    - As per Section 89, personal service uses are limited to a maximum of 5,000 sq. ft. and are limited to operate between the hours of 9am and 9pm.
    - As per Section 86, medical/dental/optical/counseling clinics are limited to a maximum 1,500 sq. ft. of gross floor area.
    - As per Section 90, retail sales uses are limited to 5,000 sq. ft. of gross floor area and are limited to operate between the hours of 9am and 9pm.
- Section 148 of Zoning By-law No. 200/06 prescribes the following dimensional standards for 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
* - Where a side or rear lot line in a commercial or institutional zoning district abuts a side or rear lot line of an R1 or R2 zoning district, a yard of 10 feet must be provided along the side or rear lot line in the commercial or institutional zoning district. The 10 foot side yard must be landscaped pursuant to sections 188 through 193 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 the "RMF-L" district

- This portion of Stafford St, on both sides from Academy Rd to Hector Av, has a Special Yard that requires a 7 ft. front yard.
- Section 183 of the zoning by-law prescribes sign regulations for the "C1" district:
    - Free-standing signs are limited to 8 ft. in height and 48 sq. ft. of surface area.
    - Fascia signs attached to buildings are limited to the height of the wall and a surface area no more than 25% of the building wall maximum.

Compatibility with the surrounding neighbourhood

- If the existing zoning agreement were to be removed, the property would be regulated solely by the provisions of the "C1" zoning district; these must be evaluated in order to determine whether it can provide adequate development control.
- Between the restrictions of the permitted principal use table in Section 62 of the zoning by-law and the Use-Specific Standards beginning in Section 63, the Planning and Land Use Division feels that the regulations of the "C1" district are, for the most part, sufficient to ensure the subject property will remain compatible with the surrounding neighbourhood. The list of permitted uses is quite limited and, of those uses whose compatibility may be of greater concern, there are additional regulations in place limiting their size and hours of operation.
    - That being said, a new zoning agreement is recommended to restrict contractor's establishment uses, as it is felt those are not compatible with the neighbourhood.
- The existing zoning agreement also restricts total sign surface area to 28 sq. ft., while the "C1" sign regulations permit free-standing signs up to 48 sq. ft. and fascia signs up to 25% of the building wall.
    - The intent of this clause in the existing zoning agreement is still relevant today. Given the lack of signage competition along Stafford, significant signage is not required, nor would it be compatible with the surrounding neighbourhood. The Planning and Land Use Division is prepared to allow an additional 20 sq. ft. of sign surface area on the subject property, aligning on-site signage regulation with the provisions in the zoning by-law.
    - However, it is felt that fascia signs of up to 25% of each building wall can be excessive. It is recommended that the maximum **total** permitted sign surface area be limited to 48 sq. ft.
    - As well, the PLU Division is recommending restrictions on advertising signs, electronic message centre signs, mobile signs, poster signs, and A-frame signs on the subject property.

RECOMMENDATION

If the existing zoning agreement were to be removed, future development of the property would be regulated by the provisions of the "C1" zoning district. With this in mind, the Planning and Land Use Division is generally supportive of the applicant's request to remove the zoning agreement.

- There is little concern with the permitted and conditional land uses enabled by the full range of the zoning district.
- Potentially problematic uses are still quite restricted to a modest size and scale as per the zoning by-law's Use-Specific Standards.

However, there are concerns two minor concerns with the complete removal of the existing zoning agreement. The first relates to a contractor's establishment as a permitted use, while the other to the signage. For the former, it is felt that this is simply not a use compatible for this location given its close proximity to single family residential dwellings. For the latter, while the PLU Division is prepared to support an increase from the current zoning agreement, there is still a desire to maintain the intent of the clause in the existing zoning agreement to ensure signage remains compatible with the surrounding neighbourhood.

This Report Submitted by: Michael Pyl
Planning, Property and Development Department
Planning and Land Use Division
Report Prepared by: PPD File # ZAA 8/2011