Minutes – Executive Policy Committee – November 7, 2012

Minute No. 29
Report – Standing Policy Committee on Planning, Property and Development – November 6, 2012

Item No. 6 Rezoning – 892 Mulvey Avenue
(Fort Rouge-East Fort Garry Ward)
File DAZ 229/2012 [c/r DAV 153025/2012D]

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and 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 land as shown on Schedule "A" for File DAZ 229/2012 dated October 2, 2012 to a "C1" Commercial 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:
            a. Contractor's establishment;
            b. Post office/carrier depot;
            c. Protection and emergency services.

        ii. That the site development shall occur in substantial conformance with plans submitted and attached hereto and identified as Schedule "A" for File No. DAZ 229/2012 dated October 2, 2012.

        iii. That commercial uses shall only occur within the detached, accessory structure.

        iv. That for the development of any new building or structure, plans shall be submitted showing the location and design of proposed buildings, the location and design of accessory parking areas, garbage enclosures, fencing and landscaping to the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permit, and thereafter to be maintained to the satisfaction of the Director of Planning, Property and Development.

Report – Standing Policy Committee on Planning, Property and Development – November 6, 2012

v. That for the erection of any signage, plans shall be submitted showing the location and design of proposed signage to the Director of Planning, Property, and Development for plan approval prior to the issuance of any sign permit, and thereafter to be maintained to the satisfaction of the Director of Planning, Property and Development.

vi. That no internally illuminated signage shall be permitted on the east, north, or south sides of the building.

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 the 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.

Report – Standing Policy Committee on Planning, Property and Development – November 6, 2012

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than 96 hours preceding the committee meeting, be considered by Committee.

Carried

Moved by Councillor Browaty,

That the recommendations of the Standing Policy Committee on Property and Development and the City Centre Community Committee be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On November 6, 2012, the Standing Policy Committee on Planning, 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 October 9, 2012, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

RE: **Rezoning – 892 Mulvey Avenue**
File DAZ 229/2012

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

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

Report date: **October 10, 2012**

COMMUNITY COMMITTEE RECOMMENDATION:

On October 9, 2012, the City Centre Community Committee 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 the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 229/2012 dated October 2, 2012 to a "C1" Commercial 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:
            a. Contractor's establishment;
            b. Post office/carrier depot;
            c. Protection and emergency services.

        ii. That the site development shall occur in substantial conformance with plans submitted and attached hereto and identified as Schedule "A" for File No. DAZ 229/2012 dated October 2, 2012.

        iii. That commercial uses shall only occur within the detached, accessory structure.

        iv. That for the development of any new building or structure, plans shall be submitted showing the location and design of proposed buildings, the location and design of accessory parking areas, garbage enclosures, fencing and landscaping to the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permit, and thereafter to be maintained to the satisfaction of the Director of Planning, Property and Development.

v. That for the erection of any signage, plans shall be submitted showing the location and design of proposed signage to the Director of Planning, Property, and Development for plan approval prior to the issuance of any sign permit, and thereafter to be maintained to the satisfaction of the Director of Planning, Property and Development.

vi. That no internally illuminated signage shall be permitted on the east, north, or south sides of the building.

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 the 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 for its recommendation:

1. There are sufficient checks and balances to address concerns raised.
2. The development is for a local community amenity that adds to the neighbourhood.
3. The development coincides with city plans in terms of mixed use at a scale that is appropriate to neighbourhood.

PUBLIC HEARING SUMMARY

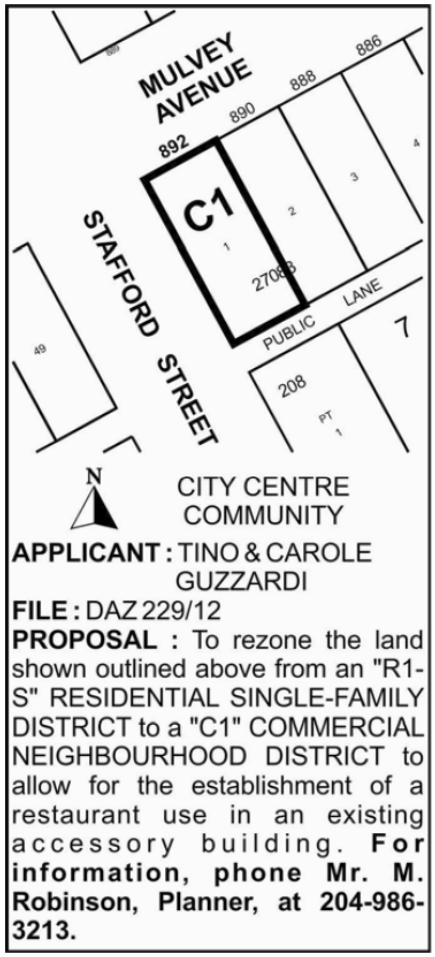
File: DAZ 229/2012

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

Public Hearing: October 9, 2012
North Committee Room
Council Building, 510 Main Street

Applicant: Tino and Carole Guzzardi

Subject:



Premises Affected: 892 Mulvey Avenue

Exhibits Filed:

1. Application dated August 3, 2012
2. Notification of Public Hearing dated September 20, 2012
3. Manitoba Status of Title 1993103/1
4. Surveyor's Building Location Certificate and sketch dated March 21, 2007
5. Plans (2 pages)
6. Report from the Planning and Land Use Division dated October 2, 2012
7. Communication dated October 2, 2012, from Dr. Jory Stillwater and Dr. William Kettner with respect to the application
8. Inspection Report
9. Presentation in support of the application submitted by the applicant at the public hearing.

REPRESENTATIONS:

In Support:

Tino Guzzardi and Carole Desmarais-Guzzardi

In Opposition

Dianne Kellas
Paul Lewis
Ann E. Lyons
Leslie Matlashewski

For Information:

Dr. Jory Stillwater and Dr. William Kettner

For the City:

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

Exhibit "6" referred to in File DAZ 229/2012

ADMINISTRATIVE REPORT

Title: DAZ 229/2012 – 892 Mulvey Avenue

Issue: For consideration at the public hearing for a Rezoning for DAZ 229/2012 – 892 Mulvey Avenue

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

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 229/2012 dated October 2, 2012 to a "C1" Commercial 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:
         a. Contractor's establishment
         b. Post office/carrier depot
         c. Protection and emergency services

      ii. That the site development shall occur in substantial conformance with plans submitted and attached hereto and identified as Schedule "A" for File No. DAZ 229/2012 dated October 2, 2012.

      iii. That commercial uses shall only occur within the detached, accessory structure.

      iv. That for the development of any new building or structure, plans shall be submitted showing the location and design of proposed buildings, the location and design of accessory parking areas, garbage enclosures, fencing and landscaping to the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development

permit, and thereafter to be maintained to the satisfaction of the Director of Planning, Property and Development.

v. For the erection of any signage, plans shall be submitted showing the location and design of proposed signage to the Director of Planning, Property, and Development for plan approval prior to the issuance of any sign permit, and thereafter to be maintained to the satisfaction of the Director of Planning, Property and Development.

vi. That no internally illuminated signage shall be permitted on the east, north, or south sides of the building.

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 City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward the 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 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.

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

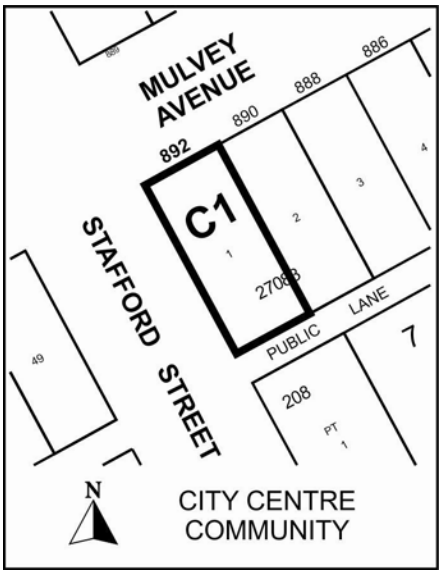
Department	*Planning, Property and Development*
Division	*Planning and Land Use*
Prepared by	Michael Robinson, AICP, MCIP
Date:	October 2, 2012
File No.	DAZ 229/2012

APPENDIX 'A'

DATE: October 2, 2012
FILE: DAZ 229/2012
RELATED FILES: DAV 12-153025D
COMMUNITY: City Centre Community
NEIGHBOURHOOD #: 1.106

SUBJECT: To rezone the subject land from an "R1-S" Residential Single-Family District to a "C1" Commercial District

LOCATION: 892 Mulvey Avenue
LEGAL DESCRIPTION: Sp Lot 1 Plan 27083 WLTO in RL 31 St. B



APPLICANT: Tino and Carole Guzzardi

OWNER: Same

RECOMMENDATION: Approval

SITE DESCRIPTION

The subject property, which is zoned "R1-S" Residential Single-Family District, is located at the southeast corner of Stafford Street and Mulvey Avenue in the Earl Grey neighbourhood of the Fort Rouge – East Fort Garry ward.

North: Residence zoned "R1-S" Residential Single-Family District
South: Commercial use zoned "R1-S" Residential Single-Family District
East: Residence "R1-S" Residential Single-Family District
West: Stafford Street

DESCRIPTION OF THE PROPOSED DEVELOPMENT
The applicant seeks approval to establish a 670 sq ft Italian deli-style restaurant in their existing detached accessory structure. The plan to have a maximum of 5-6 tables of 2-4 people. (see Appendix B for applicant's letter of intent)

Reason for application
The proposed use is classified as a restaurant, which is not permitted in the "R1-S" Residential Single-Family District. Consequently, a rezoning to "C1" Commercial District is required.

ANALYSIS AND ISSUES
A. Context
There is a small retail cluster present immediately adjacent to the subject property. More specifically, frontage properties on the east side of Stafford Street, immediately south of the subject property are commercial for approximately 1.5 blocks. Properties include a dentist, a chiropractor, and a small multi-tenant commercial building. (see Appendix B)

Immediately across the street are residences.

B. Policies
*O*urWinnipeg and Complete Communities Direction Strategy
Neighbourhood Mixed Use Corridor
Stafford Street has the characteristics of a neighbourhood mixed use corridor. Neighbourhood mixed use corridors are local collector streets that accommodate retail and mixed use forms in small clusters with low to medium density housing located between the clusters. In order to accommodate the city's anticipated increase in residential, commercial, and employment densities, portions of neighbourhood mixed use corridors will experience moderate growth and change, including the introduction of new commercial development, when contextually suitable and required by market demand.

While commercial development is not appropriate at all locations along neighbourhood mixed use corridors, Complete Communities supports a cluster approach, whereby multi-block sections of corridors, which already have existing commercial development patterns, key intersections, and/or other property influences are encouraged to intensify.

By accommodating commercial development on a corridor, adjacent to an existing commercial development node, the location of the proposed rezoning complies with the intent of Complete Communities.

Commercial Land Supply
Complete Communities also states (Commercial Areas, Direction 2 Strategy 4) the following:

Approve new locations for commercial development where significant residential areas are not well served with commercial space, where existing commercial areas cannot accommodate expansion, where the long-term negative impact impacts on existing regional and commercial centres will be minimal, where additions to the regional street system can be demonstrated to have long-term benefits and where a full range of municipal services can be provided in an environmentally sound, economical, and timely manner.

In Earl Grey, it is evident that there is significant demand for commercial space and very little vacant commercial space available. Consequently, the addition of incremental commercial space, as proposed under the subject application, meets the criteria in the Plan and will not have a negative impact on existing commercial centres in the neighbourhood.

C. *Summary*
The Winnipeg Public Service takes a very restrained approach to commercial conversions of residential properties. In general, they should only occur on corners, on regional streets, and within or adjacent to existing clusters of commercial properties. Furthermore, they should be encouraged to keep the residential structure, whenever possible, to maintain a residential character. In this instance, the subject property meets all of these criteria. For these reasons, the Winnipeg Public Service supports the proposed rezoning, with conditions, to ensure future compatibility with the area.

D. Conditions
The Winnipeg Public Service is recommending several conditions in a Zoning Agreement

1. Several uses have been listed as not permitted. These "C1" uses are deemed to be not compatible at this location.

2. The site plan submitted to the City indicates the intent to maintain the existing residential structure as a residence and to only use the detached garage as the restaurant. Conditions have been included to ensure that the site operates in this manner. For instance, if the existing building were demolished and replaced with a new structure, it would not comply with this condition and/or if any commercial operations occur within the house, it would not comply with this condition.

3. In the future, if the site is redeveloped, final plans will have to be approved by City Centre Community Committee prior to the issuance of any building or development permits.

4. Prior to the issuance of exterior signage permits, signage plans will have to be approved by the Director of Planning, Property, and Development.

5. That no internally illuminated signage be permitted along the east, south, or north sides of the building; two of these sides face residential properties and one faces the back lane.

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

- The proposed rezoning is consistent with Complete Communities
- 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, MCIP
PPD File # DAZ 229/12

APPENDIX "B"
Schedule "A" for File No. DAZ 229/2012, City Centre Community Committee, dated October 2, 2012

By-Law No. _____

File No. **DAZ 229/12**

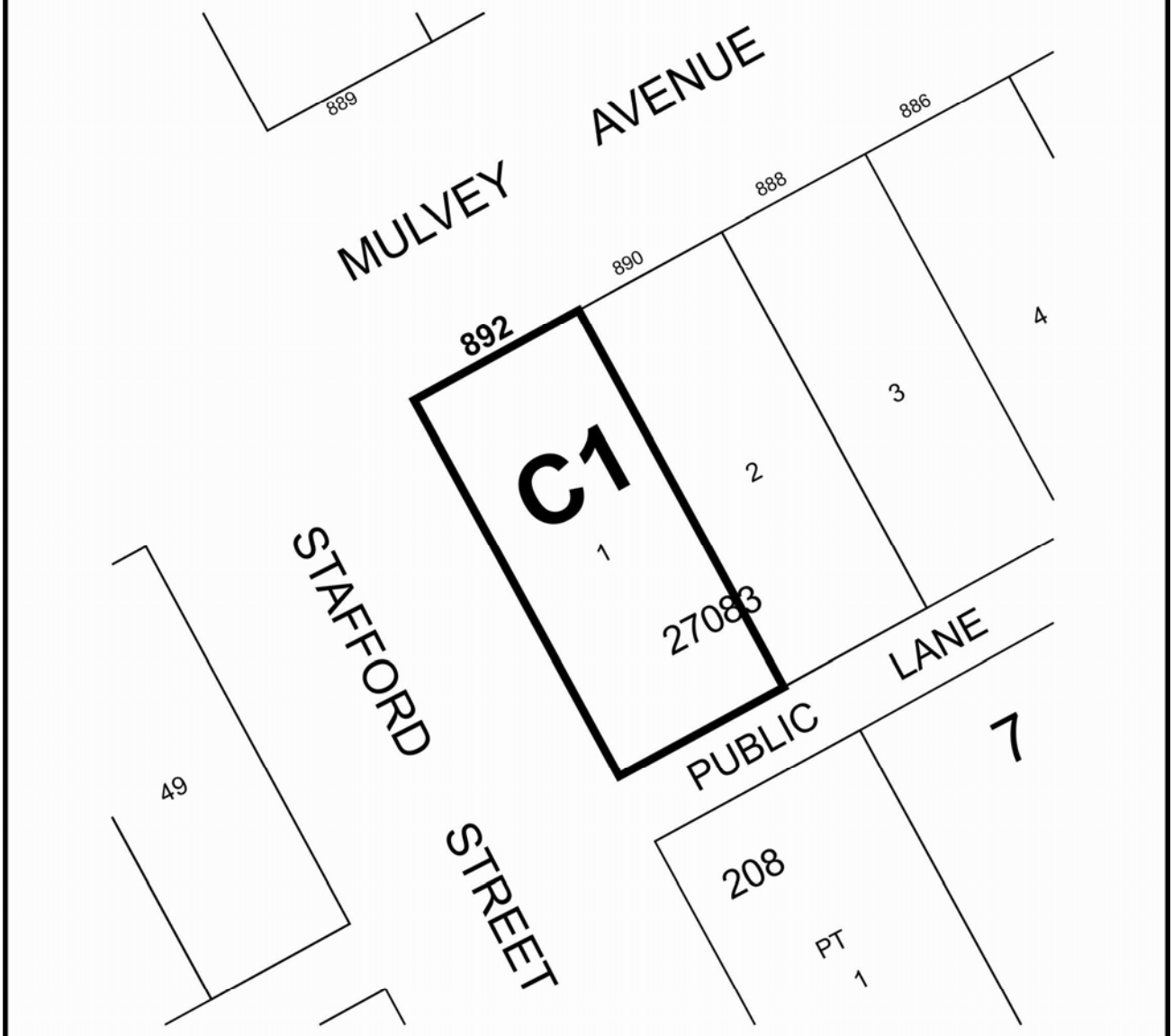
Atlas Sheet No.

N

AC23
CITY CENTRE
COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 892 Mulvey Avenue from an "R1-S" RESIDENTIAL SINGLE-FAMILY DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to allow for the establishment of a restaurant use in an existing accessory building as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

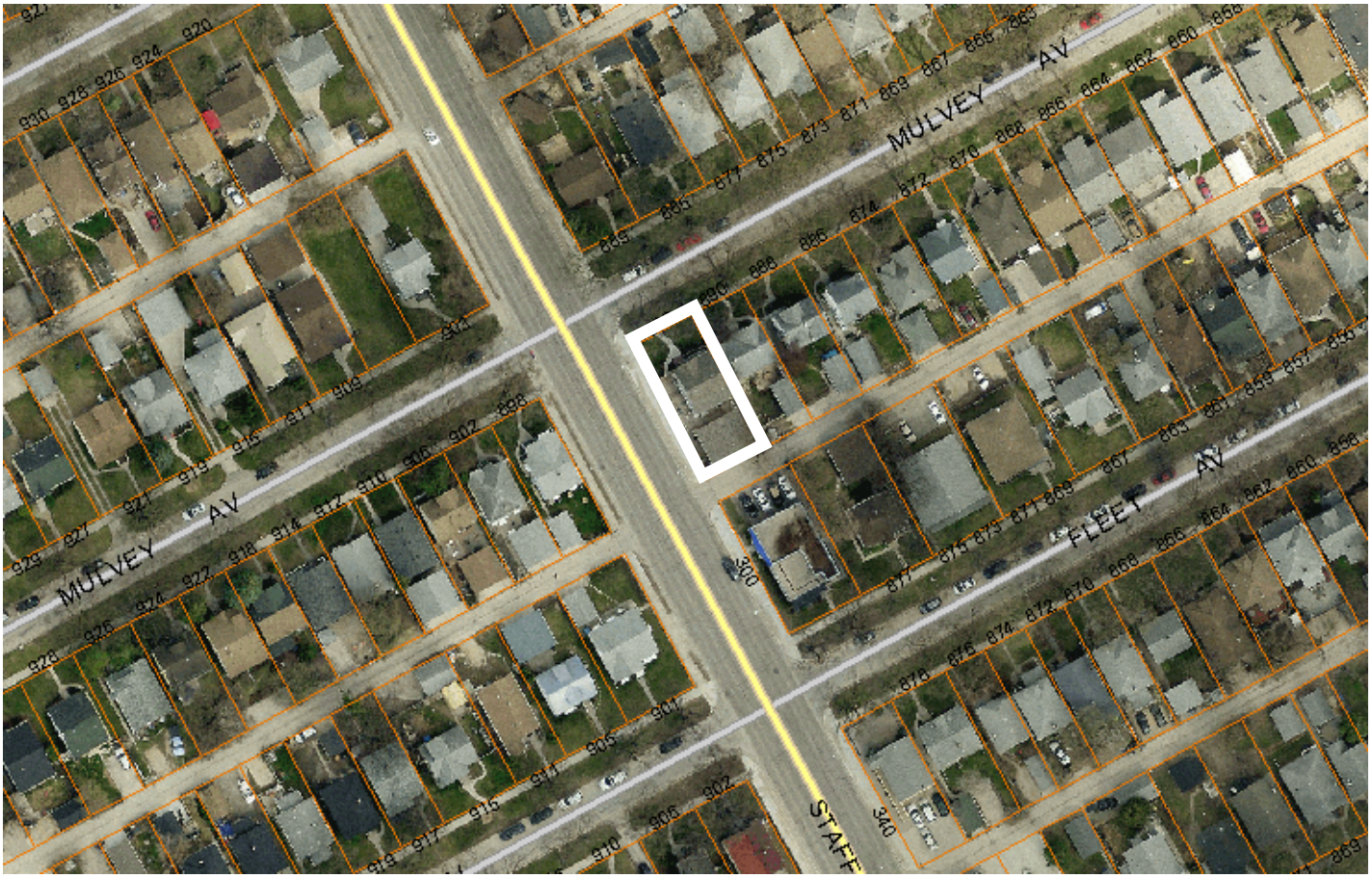
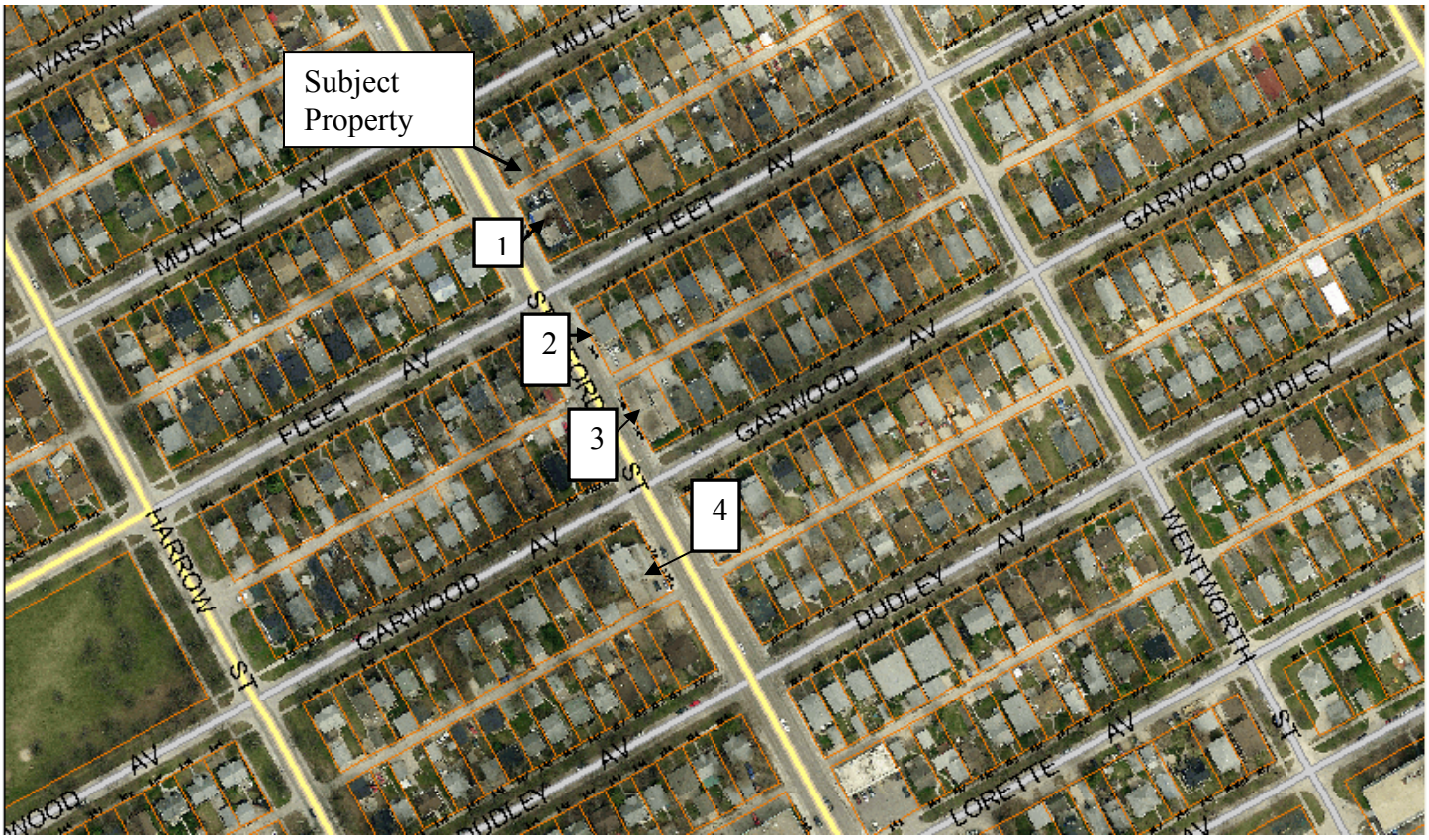


Figure 1: Aerial Photo (Flown in 2012)

Appendix A
Applicant's letter of intent

"Upon approval of the re-zoning of our garage at 892 Mulvey Avenue, we will be using the garage as a small Italian deli-style restaurant. Panzerotti, foccacia and deli-style foccacia sandwiches will be the main focus and we will possibly add daily specials (to be determined) to the menu. We would like to be able to serve beer or wine to our customers when ordering food. Customers will have the choice to sit-in or take out with a possibility of having a delivery service in the future, once the business has been established. The number of tables will depend on the space we have once the kitchen and serving area are established. We will likely have room for approximately 5-6 tables of 2-4 people. Our hours of operation will be from 9 am to 10 pm, Monday to Saturday and 10 am to 4 pm on Sundays. During the summer months, we will have 4-5 tables outside on the West side of the building (on Stafford).
There is plenty of parking on the East and West side of Stafford, with 2 hour restrictions between 3:30 pm and 5:30 pm, Monday to Friday. There are no parking restrictions on Saturday and Sunday. There are no parking restrictions on Mulvey or Fleet between 3:30pm and 5:30 pm, Monday to Friday."

Appendix B
Commercial Context



1. Dentist Office
2. Chiropractor
3. Multi-Tenant Commercial Building
4. Multi-Tenant Commercial Building