Agenda – Council – January 30, 2013

Report – Standing Policy Committee on Property and Development – January 15, 2013

Item No. 14 Rezoning – 903 Mulvey Avenue
(River Heights-Fort Garry Ward)
File DAZ 233/2012 [c/r DAV 167525/2012D]

STANDING COMMITTEE RECOMMENDATION:

On January 23, 2013, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the City Centre Community Committee, and submits the following to Council:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 233/2012 dated November 26, 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
            d. Assisted living facility
            e. Single room occupancy
            f. Social service facility
            g. Hostel
            h. Hotel or Motel
            i. Animal Hospital/Veterinary Clinic
            j. Kennel
            k. Restaurant
            l. Transit Station

        ii. That the following uses shall be conditionally permitted on the land:

            a. Neighbourhood Rehabilitation Centre
            b. Library
            c. Day Care Centre
            d. Gallery Museum
            e. Medical/Dental/Optical/Counselling Clinic

Report – Standing Policy Committee on Property and Development – January 15, 2013

iii. 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 November 26, 2012.

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 west, north, or south sides of the building.

vii. That the hours of operation be limited to 9:00 A.M. – 9: 00 P.M. Monday to Friday and 9:00 A.M. - 5:00 P.M. Saturday and Sunday.

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.

Agenda – Council – January 30, 2013

Report – Standing Policy Committee on Property and Development – January 15, 2013

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 30, 2013

Report – Standing Policy Committee on Property and Development – January 15, 2013

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 23, 2013, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the City Centre Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 15, 2013, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 8, 2013, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service be concurred in with the following amendments:

- Add the following after 1. A. i. c.:

  "d. Assisted Living Facility
  e. Single Room Occupancy
  f. Social Service Facility
  g. Hostel
  h. Hotel or Motel
  i. Animal Hospital/Veterinary Clinic
  j. Kennel
  k. Restaurant
  l. Transit Station"

Report – Standing Policy Committee on Property and Development – January 15, 2013

DECISION MAKING HISTORY: (continued)

COMMUNITY COMMITTEE RECOMMENDATION: (continued)

- Add the following new recommendations:

  "1. A. ii. That the following uses shall be conditionally permitted on the land:

  a. Neighbourhood Rehabilitation Centre
  b. Library
  c. Day Care Centre
  d. Gallery Museum
  e. Medical/Dental/Optical/Counselling Clinic"

- Renumber the remaining recommendations accordingly,

and forwarded to the Standing Policy Committee on Property and Development.

COMMUNITY COMMITTEE RECOMMENDATION:

On December 4, 2012, the City Centre Community Committee adjourned the public hearing to its meeting on January 8, 2013, to allow the applicant to consult with the area residents.

RE: **Rezoning – 903 Mulvey Avenue**
File DAZ 233/2012

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

Prepared by: **Andrew Poitras, Senior Committee Clerk**
City Centre Community Committee

Report date: **January 9, 2013**

COMMUNITY COMMITTEE RECOMMENDATION:

On January 8, 2013, 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 233/2012 dated November 26, 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
            d. Assisted living facility
            e. Single room occupancy
            f. Social service facility
            g. Hostel
            h. Hotel or Motel
            i. Animal Hospital/Veterinary Clinic
            j. Kennel
            k. Restaurant
            l. Transit Station

        ii. That the following uses shall be conditionally permitted on the land:

            a. Neighbourhood Rehabilitation Centre
            b. Library
            c. Day Care Centre
            d. Gallery Museum
            e. Medical/Dental/Optical/Counselling Clinic

iii. 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 November 26, 2012.

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 west, north, or south sides of the building.

vii. That the hours of operation be limited to 9:00 A.M. – 9: 00 P.M. Monday to Friday and 9:00 A.M. - 5:00 P.M. Saturday and Sunday.

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.

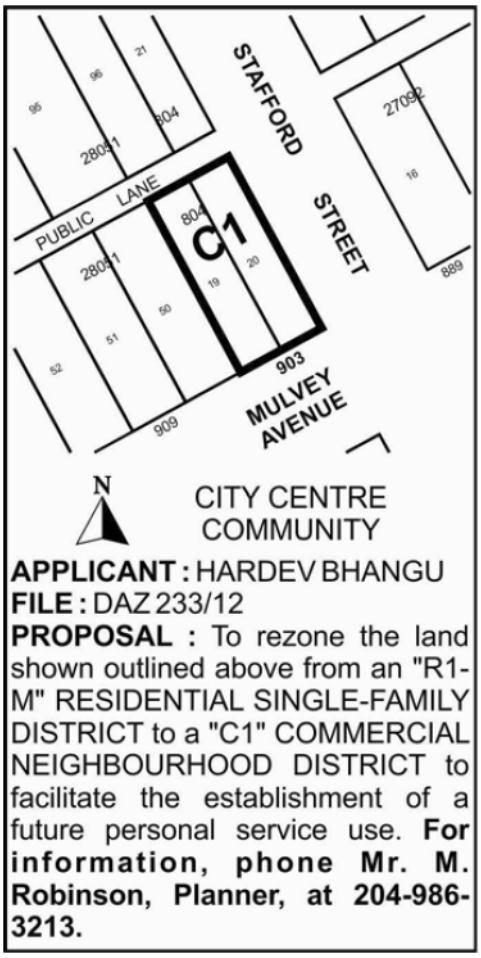
7. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

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

1. The development conforms with OurWinnipeg.
2. The use is low impact.
3. The business will provide parking for its customers.
4. The business will be located on a major traffic route.

PUBLIC HEARING SUMMARY

File:	DAZ 233/2012
Before:	City Centre Community Committee Councillor Orlikow, Chairperson Councillor Gerbasi Councillor Smith
Public Hearing:	January 8, 2013 West Committee Room Council Building, 510 Main Street December 4, 2012 Council Chambers Council Building, 510 Main Street
Applicant:	Hardev Bhangu
Subject:	
Premises Affected:	903 Mulvey Avenue

Exhibits Filed:

1. Application dated September 17, 2012
2. Notification of Public Hearing dated September 27, 2012
3. Manitoba Status of Title 2593131/1
4. Plans (5 pages)
5. Report from the Urban Planning Division dated November 26, 2012
6. Inspection Report
7. Communication dated November 27, 2012, from Linda Bish in opposition to the application
8. Communication dated November 28, 2012, from Martha Van de Mosselaer in opposition to the application
9. Communication dated December 3, 2012, from Shannon Baird in opposition to the application
10. Communication dated December 3, 2012, from Ivan Ingaldson in opposition to the application
11. Communication dated December 4, 2012, from Scott and Kara Street in opposition to the application
12. Communication dated December 3, 2012, from Stuart L. Dewick in opposition to the application
13. Communication dated December 4, 2012, from Lawrence Gargol in opposition to the application submitted at the public hearing
14. Audio Recording of representations of public hearing held on December 4, 2012
15. Notice of Adjournment dated December 10, 2012
16. Communication dated January 7, 2013, from Ivan and Darleen Ingaldson in opposition of the application
17. Communication dated January 8, 2013, from Kirsten Marquardson in opposition of the application
18. Communication dated January 8, 2013, from Kara Wickstrom-Street in opposition of the application
19. Presentation in opposition to the application submitted by Annette Gargol at the public hearing
20. Letter to area residents submitted by the applicant at the public hearing
21. Audio Recording of representations of public hearing held on January 8, 2013

REPRESENTATIONS:

In Support:

Hardev Bhangu
Gurvinder Bhangu
Leslie Matlashewski
Ram Paul
Martin Sandhurst

In Opposition:

Shannon Baird
Linda Bish
Michael Clark
Stuart L. Dewick
Shirley Forsyth
Annette and Lawrence Gargol
Ivan and Darleen Ingaldson
Ann Lyons
Thomas Michalczuk
Scott and Kara Street
Sandra Tosh
Anna Trotta
Michael Trotta
Martha Van de Mosselaer

For Information:

Nil

For the City:

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

Exhibit "5" referred to in File DAZ 233/2012

ADMINISTRATIVE REPORT

Title: DAZ 233/2012 – 903 Mulvey Avenue

Issue: For consideration at the Public Hearing for a rezoning from 'R1-M" Single Family Residential to 'C1' Commercial District for purposes of a personal care business (hair/esthetics salon).

Critical Path: City Centre Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council 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 233/2012 dated November 26, 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 November 26, 2012.

      iii. 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.

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

vi. Hours of operation limited to 9:00 A.M. – 9: 00 P.M. Monday to Friday and 9:00 A.M. - 5:00 P.M. Saturday and Sunday.

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 subject development application at the Public Hearing.
- Rezoning applications and any associated variances and/or conditional uses must be heard by the governing Community Committee as per the Winnipeg Charter.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Urban Planning Division are concurred in, the subject land will be rezoned and the proposed use of the building can take place.

CONSULTATION

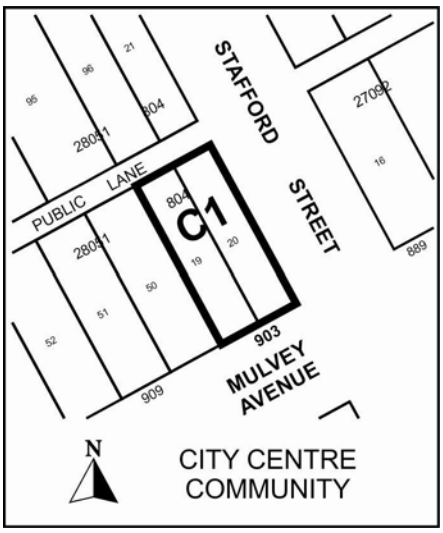
N/A

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Urban Planning
Prepared by:	Kevin Lalor
Date:	Nov. 26, 2012
File No.	DAZ 233/2012

APPENDIX 'A'

DATE: November 26, 2012
FILE: DAZ 233/2012
RELATED FILES: DAV 12-167525/D
COMMUNITY: City Centre
NEIGHBOURHOOD #: 1.106
SUBJECT: To rezone the subject land from "R1-M" Single Family to "C1" Commercial.
LOCATION: 903 Mulvey Avenue
LEGAL DESCRIPTION: Lots 19/20, Plan 804 RL 32/33 in the parish of St. B



APPLICANT: Hardev Bangu
77 Bessboro St. N

OWNER: Same as above

RECOMMENDATION: Approval with conditions

REPORT SUMMARY:

- The owner is proposing to rezone the subject property in order to establish a hair salon business on the premises. The current building (both floors and the basement) will be maintained and utilized for the business.
- The existing garage will be demolished and replaced with a 5 stall parking area accessed from the rear lane
- Fairly extensive landscaping will be installed along the west property line between the parking lot and the adjacent property at 909 Mulvey Avenue.
- The owners and operators of the business will not reside in the building.
- The rezoning results in the creation of a substandard setback on the west side of the principal building necessitating a minor variance. A minor reduction in the west side yard between the proposed parking area and the west property line also results in a variance as does a reduction in parking stall lengths. All necessary variances are deemed marginal and supportable.
- The Public Service similarly supports the proposed zoning change subject to the accompanying conditions as listed.

SITE DESCRIPTION:

- The subject property, which is zoned “R1-M” Residential Single-Family District, is located at the northwest corner of Stafford Street and Mulvey Avenue in the Earl Grey neighbourhood of the Fort Rouge – East Fort Garry ward.
- The current dwelling unit and garage occupy a 5300 sq. ft. lot.

Surrounding Land Use and Zoning:

North: Residential neighbourhood zoned “R1-M” Residential Single-Family District

South: Residential neighbourhood zoned “R1-M” Residential Single-Family District

East: East of Stafford Street is a predominantly “R1-S” Residential Single-Family housing neighbourhood. At the southeast corner of Stafford and Mulvey Ave (892 Mulvey) there is also a recently established restaurant/deli use in an existing converted dwelling zoned “C1” Commercial.

West: To the immediate west is a single family housing area zoned “R1-M” Single Family District.

Figure 1: Subject Site looking south



DESCRIPTION OF THE PROPOSED DEVELOPMENT:

- The owner is proposing to rezone the subject property in order to establish a hair salon business on premises. The current building (both floors and the basement) will be maintained and utilized for the business.
- The existing garage will be demolished and replaced with a 5 stall parking area accessed by the rear lane.
- Fairly extensive landscaping will be installed along the west property line between the parking lot and the adjacent property at 909 Mulvey Avenue.
- The owners and operators of the business will not reside in the building.

ANALYSIS AND ISSUES:

A. Context:

There is a small retail cluster currently in place along the east side of Stafford Street and south of Mulvey Avenue. More specifically, frontage properties on the east side of Stafford, immediately south of Mulvey Avenue are essentially all commercial for approximately 1.5 blocks. These commercial businesses include a dentist, a chiropractor, and a small multi-tenant commercial building. As well, the property across the street and to the south was rezoned for a small restaurant in October 2012. The majority of properties on the west side of Stafford Street are still occupied with single family homes.

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. The subject yard and parking lot variances are also deemed to be of a marginal nature and are therefore fully supported by the Public Service.

RECOMMENDATION:

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

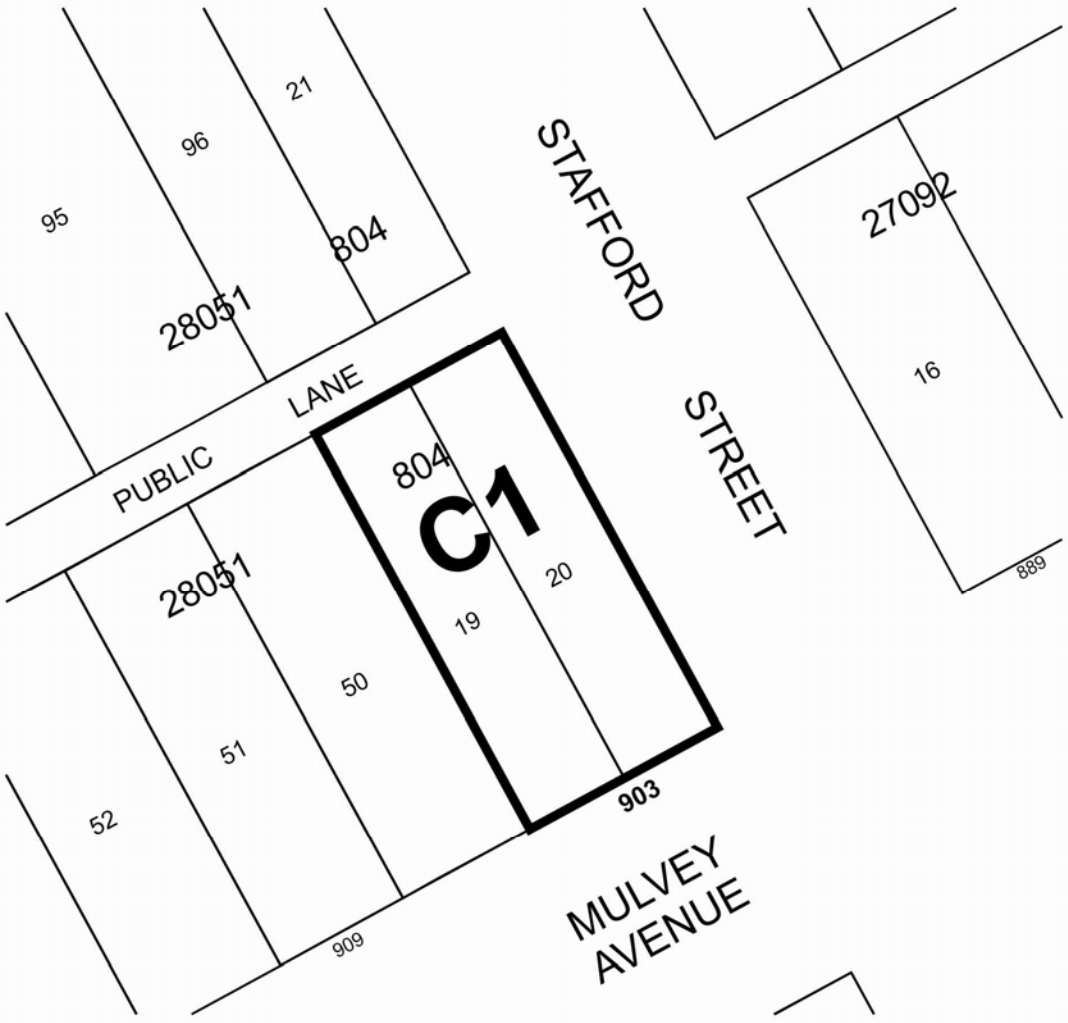
- The proposed rezoning is consistent with Complete Communities
- The rezoning is compatible with the area and will not have an adverse impact on adjoining properties.

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

Report Prepared By: Kevin Lalor
PPD File # DAZ 233 2012

Schedule "A" for File No. DAZ 233/2012, City Centre Community Committee, dated November 26, 2012

By-Law No.	File No. **DAZ 233/12**
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 903 Mulvey Avenue from an "R1-M" RESIDENTIAL SINGLE-FAMILY DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to facilitate the establishment of a future personal service use as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____



Figure 2: Aerial Photo (Flown in 2012)