Report - Standing Policy Committee on Property and Development - September 30, 2003

Item No. 11 Rezoning - 995 and 999 Corydon Avenue
File DAZ 229/2003 [c/r DAV 320226/2003D]

STANDING COMMITTEE RECOMMENDATION:

On October 15, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 204/2003 dated August 26, 2003, to a "C1.5" 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 use of the property be restricted to the following uses including accessory and secondary uses:
            a. Art/antique; sales, service
            b. Art/crafts/hobby: instruction, supplies
            c. Artisan, crafting of custom products
            d. Barber shop, beauty salon
            e. Bed and breakfast, accessory to a single-family dwelling
            f. Bicycle: rental, sale, or service
            g. Book: sales
            h. Clothing: alteration, repair, sales
            i. Consignment sales: clothing
            j. Day Care Centre
            k. Dressmaker, furrier, tailor
            l. Dwelling units
            m. Fabric, yarn sales
            n. Florist
            o. Gift store
            p. General merchandise, retail: subject to Conditional Use
            q. Home occupation
            r. Jeweller, watchmaker
            s. Massage therapist
            t. Professional office excluding real estate office

u. Parking area: accessory
v. Personal service: subject to Conditional Use
v. Reducing salon, health spa, steam bath, tanning salon or similar facility
w. Sporting goods: rental, sales, service, trophy sales
x. Stationery sales
y. Toy sales

ii. That third party advertising signage and temporary signage including poster boards, banners and mobile signs, be prohibited on the property and that the location of facia or awning signage be limited to south-facing walls.

iii. That free-standing or pylon signage be limited to a height of eight (8) feet (2.4 metres).

iv. That the hours of public operation be limited to between the hours of 7:00 a.m. and 12:00 p.m. daily.

v. That parking on the land be limited to no more than nine (9) vehicles plus a loading zone.

vi. That a building setback of twenty-five (25) feet from the rear (north) property line be maintained.

vii. That no buildings or permanent structures be located within seven (7.0) feet (2.134m) of the front (south) property line to provide for the possible future widening of Corydon Avenue.

viii. That prior to the issuance of a development permit for any exterior modifications, detailed plans be submitted for the approval of the City Centre Community Committee showing site layout, parking, access, building elevations and exterior materials, fencing, landscaping, signage and garbage enclosures.

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 the market value of the land.

Report - Standing Policy Committee on Property and Development - September 30, 2003

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 same to Council for all three readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat as a first charge against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council 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.

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.

Report - Standing Policy Committee on Property and Development - September 30, 2003

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 15, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 30, 2003, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to Executive Policy Committee and Council.

COMNMUNITY COMMITTEE RECOMMENDATION:

On September 9, 2003, the City Centre Community Committee concurred in the administrative recommendation with the following amendments:

- Delete the following:
  1.A.ii. That any commercial uses on the land be located within the existing structures in accordance with building code and related occupancy requirements and that additions to these structures be allowed only as may be required to satisfy building code requirements.

  and renumber the balance of the conditions accordingly.

- Amend Condition No. 1.A.viii. by deleting the words “That the residential character of the existing structures be maintained and” in the first line thereof .

and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 995 and 999 Corydon Avenue**
File DAZ 229/2003 [c/r DAV 320226/2003D}

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

Prepared by: **Carol Freeman, Clerk,**
City Centre Community Committee

Report date: **September 17, 2003**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 9, 2003, the City Centre Community Committee concurred in the administrative recommendation, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 204/2003 dated August 26, 2003, to a "C1.5" 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 use of the property be restricted to the following uses including accessory and secondary uses:
            a. Art/antique; sales, service
            b. Art/crafts/hobby: instruction, supplies
            c. Artisan, crafting of custom products
            d. Barber shop, beauty salon
            e. Bed and breakfast, accessory to a single-family dwelling
            f. Bicycle: rental, sale, or service
            g. Book: sales
            h. Clothing: alteration, repair, sales
            i. Consignment sales: clothing
            j. Day Care Centre
            k. Dressmaker, furrier, tailor
            l. Dwelling units
            m. Fabric, yarn sales
            n. Florist
            o. Gift store
            p. General merchandise, retail: subject to Conditional Use
            q. Home occupation

r. Jeweller, watchmaker
s. Massage therapist
t. Professional office excluding real estate office
u. Parking area: accessory
v. Personal service: subject to Conditional Use
w. Reducing salon, health spa, steam bath, tanning salon or similar facility
x. Sporting goods: rental, sales, service, trophy sales
y. Stationery sales
z. Toy sales

~~***ii. That any commercial uses on the land be located within the existing structures in accordance with building code and related occupancy requirements and that additions to these structures be allowed only as may be required to satisfy building code requirements.***~~

iii. That third party advertising signage and temporary signage including poster boards, banners and mobile signs, be prohibited on the property and that the location of facia or awning signage be limited to south-facing walls.

iv. That free-standing or pylon signage be limited to a height of eight (8) feet (2.4 metres).

v. That the hours of public operation be limited to between the hours of 7:00 a.m. and 12:00 p.m. daily.

vi. That parking on the land be limited to no more than nine (9) vehicles plus a loading zone.

vii. That a building setback of twenty-five (25) feet from the rear (north) property line be maintained.

viii. That no buildings or permanent structures be located within seven (7.0) feet (2.134m) of the front (south) property line to provide for the possible future widening of Corydon Avenue.

ix. ~~***That the residential character of the existing structures be maintained and***~~ that, prior to the issuance of a development permit for any exterior modifications, detailed plans be submitted for the approval of the City Centre Community Committee showing site layout, parking, access, building elevations and exterior materials, fencing, landscaping, signage and garbage enclosures.

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 the 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 same to Council for all three readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat as a first charge against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council 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.

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.

The City Centre Community Committee provided the following supporting reasons for its recommendation:

1. There is clearly a need for rezoning in the subject area.

2. There is strong support from the community for the application.

3. The applicant has a track record for good development in the community.

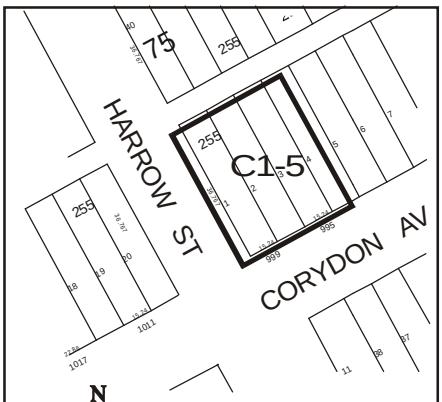
PUBLIC HEARING SUMMARY

File: DAZ 229/2003 [c/r DAV 320226/2003D}

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

Public Hearing: Concresco Lupus Developments Inc. (Maria Abiusi)
115 Shier Drive
Winnipeg, MB R3R 2H2

Subject:



APPLICANT : CONCRESCO LUPUS DEVELOPMENT
FILE : DAZ 229/03
PROPOSAL : To rezone the land shown outlined above an "RM-2A" MULTIPLE-FAMILY DISTRICT to a "C1-5" COMMERCIAL DISTRICT to allow for commercial development.
For information, phone Mr. R. Mitchell, Planner at 986-5017.

Premises Affected: 995 and 999 Corydon Avenue

Exhibits Filed:
1. Application dated August 7, 2003
2. Notification of Public Hearing to Applicant dated August 7, 2003
3. Manitoba Status of Titles 1884840 and 1912577
4. Manitoba Land Surveyor's Certificate and Sketch dated January 25, 1957

5. Surveyor's Building Location Certificate and Sketch dated July 5, 2002
6. Extract from Atlas Sheet AC23
7. Drawings of subject property (3 pages)
8. Main and Second Floor Plans (2 pages)
9. Site Plan
10. Report of the Manager of Planning and Land Use dated August 26, 2003
11. Photographs of the Site and Inspection Notice
12. Letter of Authorization and Consent dated September 8, 2003, from Maria and Jack Abiusi, to Bueti, Baumstark, Kunzman, Barristers and Solicitors
13. Communication dated August 9, 2003, from Stewart Elston, Regional Director, Pharma Plus Drugmarts with respect to the lease of five (5) parking stalls in the lot at the Corydon Avenue and Stafford Street store (Pharma Plus No. 4812)
14. Communication from Julie Derksen in support of the application
15. Communication from David Stewart in support of the application
16. Communication from Ruth Widdicombe in support of the application
17. Communication from M. MacNaughton in support of the application
18. Communication from N. Sanders in support of the application
19. Communication from A. Samson in support of the application
20. Communication from Kyle Harris in support of the application
21. Communication from Jennifer Berthelette in support of the application
22. Communication from Mary Kelekis in support of the application
23. Communication from Judith Griffiths in support of the application
24. Communication from Ricki Miles in support of the application
25. Communication from Susan Skinner in support of the application
26. Communication from Andrea Silver in support of the application
27. Communication from R.B. MacDonald in support of the application

28. Communication from Jim Grafos in support of the application
29. Communication from Kerry Cazzorla in support of the application
30. Communication from G. Cantafio in support of the application
31. Communication from R. Cantafio in support of the application

REPRESENTATIONS:

In Support:

Jack and Maria Abuisi, Concresco Lupus Developments Inc.
Vincent J. Bueti, Bueti, Baumstark, Kunzman, Barristers and Solicitors
Jennifer Berthelette
G. Cantafio
R. Cantafio
Kerry Cazzorla
Julie Derksen
Jim Grafos
Judith Griffiths
Kyle Harris
Mary Kelekis
R.B. MacDonald
Ricki Miles
A. Samson
N. Sanders
Andrea Silver
Susan Skinner
David Stewart
Ruth Widdicombe

In Opposition:

Nil

For the City:

Ross Mitchell, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Mr. Bueti, appearing in support of the application, advised that appearing with him were one of the owners of the property as well as one of the prospective tenants.

He submitted a Letter of Authorization, filed as Exhibit No. 12, a communication from Pharma Plus Drugmarts detailing arrangements made with respect to the availability of five (5) additional parking spaces that might be required, filed as Exhibit No. 13, and eighteen (18) letters in support of the application from area residents, filed as Exhibits 14 to 31, inclusive.

Mr. Bueti indicated that it was the applicant's intention to be good neighbours and they looked forward to adding to the flavour of the subject area of Corydon Avenue. He noted that there were two small concerns in the administrative report given the properties in question were an older bungalow and a two-storey home, which may require renovation/replacement at some point in the future. As a result he requested that favourable consideration be given to deleting Condition 1. A. ii. and amending Condition 1. A. ix. By deleting the words "That the residential character of the existing structures be maintained and" in the first line thereof.

Exhibit “10” referred to in File DAZ 229/2003 [c/r DAV 320226/2003D]

In reply please refer to / Référence à rappeler :

Ross Mitchell
(204) 986-5017
Fax / Téléc. : (204) 986-3684

File No. DAZ 229/03 (c/r DAV 03-320226D) August 26, 2003
Our c/f CP 500 (.601)

Ms. Carol Freeman, Clerk
City Centre Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Freeman:

REZONING
Northeast corner of Harrow and Corydon
City Centre Community Committee
File No. DAZ 229/03

An application has been received from Concresco Lupus Developments Inc. (Maria Abiusi), to amend By-Law No. 6400/94 by rezoning the land shown below from a/an “RM-2A” Multiple-Family District (Airport Area) to a/an “C1.5” Commercial District to allow for commercial development.

RELATED FILES: DAV 03-320226D



SITE DESCRIPTION:

Site Area: 2 properties combined to provide 100.28 feet of frontage on Corydon and 120.6 feet of flankage on Harrow; 12,094 square feet approx.

Existing Land Use and Zoning:

- 995 Corydon: 2-storey stucco commercial building (converted house) zoned "RM-2A". The building provides about 945 square feet per floor with full basement (2,835 square feet total). The property contains a 467 square foot, 2-car garage off the public lane. The basement currently contains a clock repair business. The main floor is proposed for a clothing store. The second floor contains a travel agency.
- 999 Corydon: 1-storey stucco commercial building (converted house) zoned "RM-2A". The building provides about 1,162 square feet of floor area on the main floor with a full basement (2,324 square feet total). The property contains a 342 square foot, 1-car garage. The building is called the "Southview Massage Therapy Centre", and contains a massage therapy business and an aesthetician. A spare room is designated on the floor plan as future tenant space.

Surrounding Land Use and Zoning:

North: Single-Family housing fronting McMillan, zoned "R1-4A".
South: across Corydon, St. Ignatius Catholic Church and school, zoned "R1-3.5A".
East: PharmaPlus drug store and parking lot zoned "C2".
West: across Harrow, apartment building zoned "RM-3A".

DEVELOPMENT DESCRIPTION:

The proposal is to rezone the properties for commercial use. The related zoning variance application would expedite the process by approving the commercial use of the properties prior to Council approval of the rezoning. The zoning variance would also vary the parking requirements and repeal the existing variance and conditional use orders on the properties.

The applicant has no plans at this time to redevelop the properties. The only change proposed is the demolition of the two garages in order to provide gravel parking for 9 vehicles off the public lane, plus a loading zone.

The 2-storey house at 995 Corydon is to retain a clock repair business in the basement (Corydon Clock Repair), a clothing store on the main floor, and the Perspective Travel agency on the second floor. The 1-storey house at 999 Corydon is to contain a massage therapy business and an aesthetician on the main floor. The basement is to remain unoccupied until building code issues are resolved.

PLAN WINNIPEG:

The application complies with Plan Winnipeg in that commercial rezonings of residential properties are permitted in Neighbourhood Policy Areas.

ADMINISTRATIVE COMMENTS:

The subject properties have been used for commercial purposes for several years. The properties were zoned "R3" Multiple-Family District under the previous Zoning By-law No. 16502, wherein offices were a Conditional Use. The property at 995 Corydon was approved for a business office (insurance) in 1985 under DCU 120/85. The clock repair business was approved under DAV 271/01C. The property at 999 Corydon was approved for a business office under DCU 71/88, a psychologist's office under DAV 290/95C, and a massage therapy office under DAV 464/00C. The businesses on both properties were subjected to limited hours of operation in order to protect the residential environment. Specifically, the hours of operation at 999 Corydon (massage therapist) were restricted to 8:00 a.m. to 9:00 p.m. daily, while the hours of operation at 995 Corydon were restricted to 8:00 a.m. to 10:00 p.m. daily. It is noted that a previous rezoning application under DAZ 226/94 was rejected by the then City Centre Community Committee due to opposition from adjacent residents and the District Planner at the time. Recently, however, the adjacent PharmaPlus drug store site was rezoned under DAZ 204/03 to "C1.5" with no opposition from area residents. The Zoning Agreement for the drug store site requires businesses on the site to close between the hours of 12:00 a.m. and 7:00 a.m. daily.

The Planning and Land Use Division is prepared to support this rezoning application and the related zoning variances application for the following reasons:

- the properties have been converted to commercial use;
- the properties are located on a regional street;
- the remainder of the block was rezoned to "C1.5" under DAZ 204/03;
- the use of the properties for commercial purposes can be restricted via a Zoning Agreement in order to protect the adjacent residential area from inappropriate land uses and commercial activity that might prove disruptive to the residential environment.

The Division does, however, have concerns regarding the lack of long-term plans for the properties. Under the general provisions of the "C1.5" zoning, the properties could theoretically be redeveloped with a 3 storey commercial building providing "zero-foot" front (Corydon) and corner (Harrow) side yards, and with a gross floor area including basement of over 28,000 square feet. This scale of development would be excessive for the site given its limitations of size, access and parking, and close proximity to housing. Moreover, the list of permitted and conditional uses in the "C1.5" zoning district also includes several uses that would not be appropriate for the site given its limitations. The Division also does not want to encourage the westerly extension of the restaurant/bar uses that are having a detrimental impact on the quality-of-life of Corydon Village residents on the east side of Stafford.

Therefore, the Division will be recommending that the rezoning be approved subject to several conditions that will provide the owner with a wider range of commercial opportunities while ensuring that, prior to any future site redevelopment or intensification of commercial uses, the owner will have to go through another public hearing process before the City Centre Community Committee.

RECOMMENDATION:

I. That By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 204/03, attached hereto and dated, August 26, 2003, to a "C1.5" Commercial District, subject to the following:

A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 591(1) of The City of Winnipeg Act, to provide for the following:

1. That the use of the property be restricted to the following uses including accessory and secondary uses:

- Art/antique; sales, service
- Art/crafts/hobby: instruction, supplies
- Artisan, crafting of custom products
- Barber shop, beauty salon
- Bed and breakfast, accessory to a single-family dwelling
- Bicycle: rental, sale, or service
- Book: sales
- Clothing: alteration, repair, sales
- Consignment sales: clothing
- Day Care Centre
- Dressmaker, furrier, tailor
- Dwelling units
- Fabric, yarn sales
- Florist
- Gift store
- General merchandise, retail: subject to Conditional Use
- Home occupation
- Jeweler, watchmaker
- Massage therapist
- Professional office excluding real estate office
- Parking area: accessory
- Personal service: subject to Conditional Use
- Reducing salon, health spa, steam bath, tanning salon or similar facility
- Sporting goods: rental, sales, service, trophy sales

- Stationery sales
- Toy sales

2. That any commercial uses on the land be located within the existing structures in accordance with building code and related occupancy requirements and that additions to these structures be allowed only as may be required to satisfy building code requirements.

3. That 3rd party advertising signage and temporary signage including poster boards, banners and mobile signs, be prohibited on the property and that the location of facia or awning signage be limited to south-facing walls.

4. That free-standing or pylon signage be limited to a height of 8 feet (2.4 metres).

5. That the hours of public operation be limited to between the hours of 7:00 a.m. and 12:00 p.m. daily.

6. That parking on the land be limited to no more than 9 vehicles plus a loading zone.

7. That a building setback of 25' from the rear (north) property line be maintained.

8. That no buildings or permanent structures be located within 7.0 feet (2.134m) of the front (south) property line to provide for the possible future widening of Corydon Avenue.

9. That the residential character of the existing structures be maintained and that, prior to the issuance of a development permit for any exterior modifications, detailed plans be submitted for the approval of the City Centre Community Committee showing site layout, parking, access, building elevations and exterior materials, fencing, landscaping, signage and garbage enclosures.

II. That a 10 percent 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 the market value of the land.

III. That, in the event this application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of this 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.

IV. That the City Solicitor be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

V. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat as a first charge against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council 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.

VI. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

VII. That the City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Act.

Yours truly,

C. Knoll
Manager of Planning and Land Use

_____

Per: Ross Mitchell, Senior Planner
(City Centre and Assiniboia Communities)
986-5017

/jc

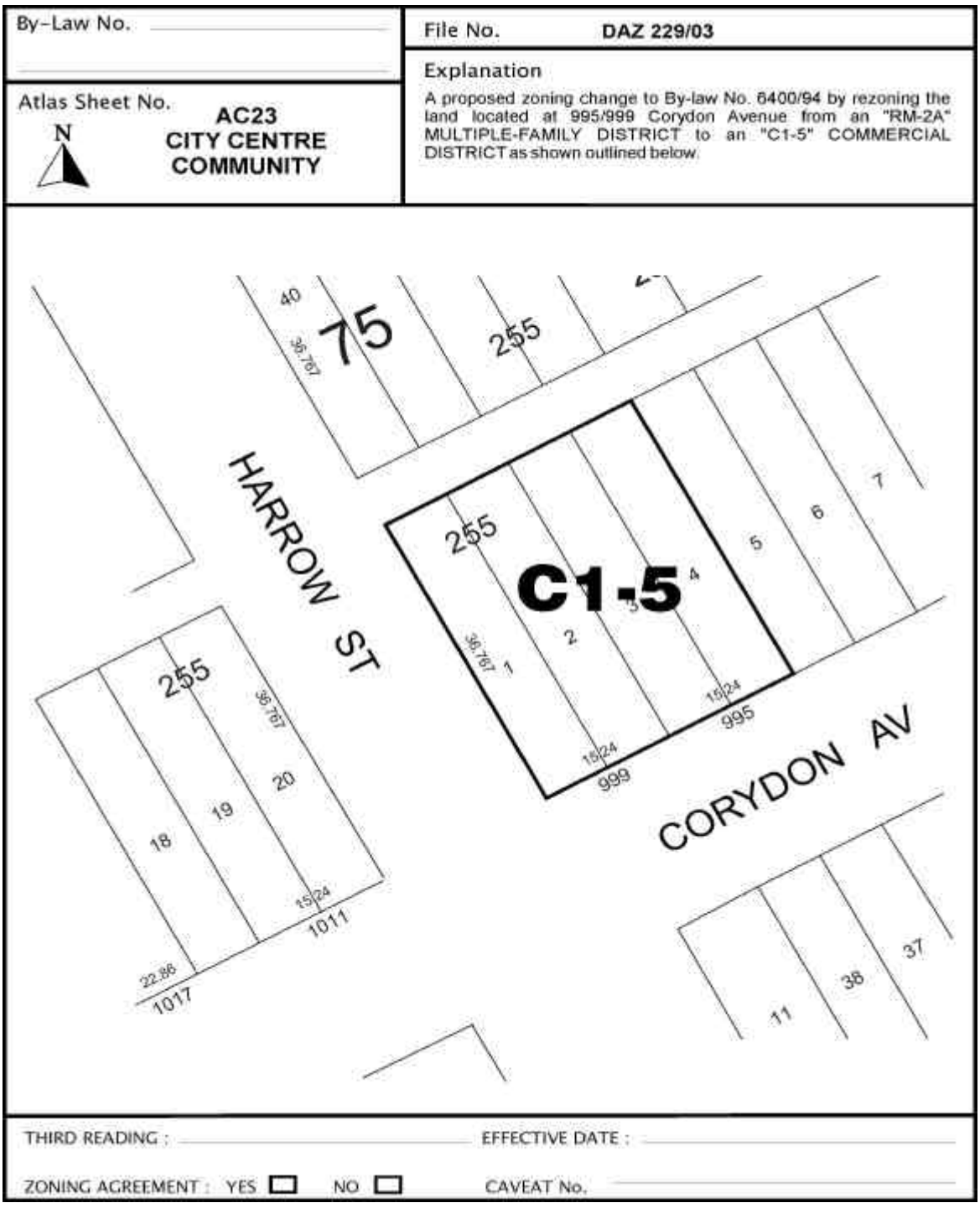


Figure 1: Schedule "A" to the report to the City Centre Community Committee for File No. DAZ 229/03, dated August 26, 2003.