Minute No. 354
Report – Executive Policy Committee – May 8, 2018

Item No. 1 Rezoning – 721 Oxford Street
(River Heights – Fort Garry Ward)
File DAZ 221/2017 [c/r DAV 174014/2017D]

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

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 221/2017 dated April 10, 2018 to a "C1 PDO-1 Airport Vicinity Protection Area Commercial Neighbourhood" District, subject to the following:

    A. That the applicant enter into, execute and deliver 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 in the event the property is redeveloped, the Owner must submit plans showing the location and design of any and all proposed:

            a. buildings;
            b. accessory parking areas;
            c. driveways;
            d. garbage enclosures;
            e. fencing
            f. landscaping; and
            g. signage

            on the Owner's Land ("Works") to the City Centre Community Committee and the Director of Planning, Property and Development for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

Report – Executive Policy Committee – May 8, 2018

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

ii. That the following uses shall not be permitted on the land:

a. Animal hospital or veterinary clinic
b. Kennel

iii. That the following uses shall be conditional:

a. Restaurant

2. That, in lieu of the dedication of land, the Developer shall provide cash payment representing 10% of the appraised value of the Development Application, as determined by the City.

3. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

4. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two (2) years 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 the two (2)-year period and Council approves the extension.

5. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

6. That the by-law shall come into force and effect 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 the by-law is passed, failing which the by-law will expire and 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 the one year period and Council approves the extension.

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

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

Report – Executive Policy Committee – May 8, 2018

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 8, 2018, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 10, 2018, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Rezoning – 721 Oxford Street**
File DAZ 221/2017

For submission to: **Executive Policy Committee**

Prepared by: **Kate McMillan, Senior Committee Clerk**
City Centre Community Committee

Report date: **April 11, 2018**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 10, 2018, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

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 221/2017 dated April 10, 2018 to a "C1 PDO-1 Airport Vicinity Protection Area Commercial Neighbourhood" District, subject to the following:

    A. That the applicant enter into, execute and deliver 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 in the event the property is redeveloped, the Owner must submit plans showing the location and design of any and all proposed:

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            d. garbage enclosures;
            e. fencing
            f. landscaping; and
            g. signage

            on the Owner's Land ("Works") to the City Centre Community Committee and the Director of Planning, Property and Development for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

ii. That the following uses shall not be permitted on the land:

a. Animal hospital or veterinary clinic
b. Kennel

iii. That the following uses shall be conditional:

a. Restaurant

2. That, in lieu of the dedication of land, the Developer shall provide cash payment representing 10% of the appraised value of the Development Application, as determined by the City.

3. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

4. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two (2) years 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 the two (2)-year period and Council approves the extension.

5. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

6. That the by-law shall come into force and effect 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 the by-law is passed, failing which the by-law will expire and 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 the one year period and Council approves the extension.

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

8. 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 reasons for its recommendation:

1. It's an incremental change, and we're seeing no opposition here today and have not received any information in opposition.
2. They're established already in the area and they just want to add more.
3. The planner's report sets some guidelines and constraints for the future.

PUBLIC HEARING SUMMARY

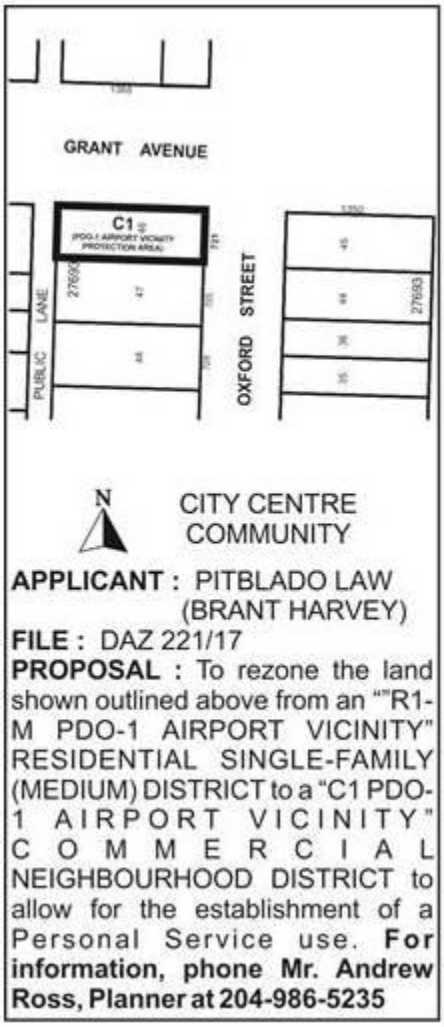
File: DAZ 221/2017

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

Public Hearing: April 10, 2018
Council Building, 510 Main Street

Applicant: Pitblado Law (Brant Harvey)

Subject:



Premises Affected: 721 Oxford Street

Exhibits Filed:

1. Application dated January 15, 2018
2. Notification of Public Hearing dated February 12, 2018
3. Manitoba Status of Title 2863208/1
4. Letter of authorization dated September 15, 2017 from Stephen Dziver and Amber Dziver to Pitblado LLP
5. Letter of authorization dated January 8, 2018 from Stephen Dziver and Amber Dziver to Brant Harvey, Pitblado Law
6. Surveyor's Building Location Certificate and sketch dated September 15, 2017
7. Plan (1 page)
8. Report from the Urban Planning Division dated April 3, 2018
9. Inspection Report

REPRESENTATIONS:

In Support:

Brant Harvey
Amber Dziver
Stephen Dziver

In Opposition:

Nil

For Information:

Nil

For the City:

M. Robinson, Senior Planner, Planning, Property and Development Department
A. Ross, Planner, Planning, Property and Development Department

Exhibit " 8 " referred to in File DAZ 221/2017

ADMINISTRATIVE REPORT

Title: DAZ 221/2017 – 721 Oxford St

Issue: For consideration at the public hearing for a rezoning to a "C1 PDO-1 Airport Vicinity Protection Area Commercial Neighbourhood" District for DAZ 221/2017 – 721 Oxford St to allow for the maintenance of massage therapy commercial building use.

Critical Path: City Centre Community Committee as per the Development Procedures By-law and *The City of Winnipeg Charter.*

AUTHORIZATION

Author	Division Head	CFO	CAO
A. Ross, RPP	B. Smith, RPP		

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 221/2017 dated April 10, 2018 to a "C1 PDO-1 Airport Vicinity Protection Area Commercial Neighbourhood" District, subject to the following:

    A. That the applicant enter into, execute and deliver 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 in the event the property is redeveloped, the Owner must submit plans showing the location and design of any and all proposed:

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on the Owner's Land ("Works") to the City Centre Community Committee and the Director of Planning, Property and Development for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

ii. That the following uses shall not be permitted on the land:

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iii. That the following uses shall be conditional:

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2. That, in lieu of the dedication of land, the Developer shall provide cash payment representing 10% of the appraised value of the Development Application, as determined by the City.

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

8. 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 is proposing to rezone the land from an "R1-M" Residential Single Family – Medium District to a "C1 PDO-1 Airport Vicinity Protection Area Commercial Neighbourhood" District in order to operate a personal service (Massage Therapy Clinic) in the existing building.

- Rezoning applications require a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- 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 Urban Planning Division are concurred in, the property may be rezoned.

HISTORY

On **March 17, 2008**, the City Centre Community Committee rejected a rezoning to "C1" under File DAZ 201/2008 to establish a massage therapy office on the property.

On July 17, 2008, the Appeal Committee approved a Conditional Use to permit a massage therapist with 2 (two) non-resident massage therapists onsite as a home occupation, with the following conditions:

1. That a maximum of two (2) non-resident massage therapist employees be permitted on the premises at any given time.
2. That the main entrance for all clients be from the Grant Avenue entrance.
3. That the hours of operation for the massage therapy service be limited to the hours between 8:00 a.m. and 8:00 p.m., Mondays thru Saturdays.
4. That the side windows facing Oxford Street and the window facing south (the house behind) be frosted.
5. That plans showing the details and design of any signage to be erected on "the land" be submitted to and approved by the City Centre Community Committee and all signage shall be limited to fronting on Grant Avenue.
6. That the Conditional Use Appeal Order shall expire on July 31, 2010.

On **July 7, 2010**, the Director of Planning, Property and Development approved a new Conditional Use for 2 (two) non-resident massage therapists, with similar conditions to those placed on the 2008 approval, with a new expiry date of July 31, 2015.

On **June 25, 2015**, the Director of Planning, Property and Development approved a new Conditional Use for 2 (two) non-resident massage therapists, with similar conditions to those placed on the 2008 approval, with a new expiry date of July 31, 2020.

The applicant indicates that at this time, given the long-standing operation of this use on the property, they wish to formalize it by rezoning to a district that supports the use, and that allows for an increase in the number of employees.

CONSULTATION

In preparing this Report there was consultation with:

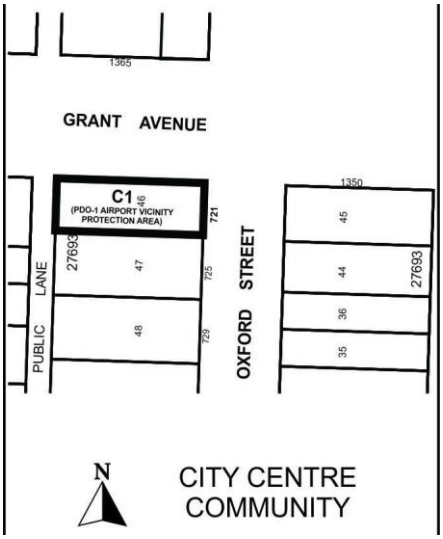
N/A

SUBMITTED BY

Department	*Planning, Property and Development*
Division	*Urban Planning*
Prepared by	Andrew Ross, RPP, MCIP
Date:	April 3, 2018
File No.	DAZ 221/2017

APPENDIX 'A'

DATE:	April 3, 2018
FILE:	**DAZ 221/2017**
RELATED FILES:	DAV 17-174014\D
COMMUNITY:	City Centre Community
NEIGHBOURHOOD #:	1.628 – South River Heights
SUBJECT:	To rezone the land from an "R1-M" Residential Single Family – Medium District to a "C1 PDO-1 Airport Vicinity Protection Area Commercial Neighbourhood" District.
LOCATION:	721 Oxford Street
LEGAL DESCRIPTION:	LOT 46 PLAN 27693 46 ST B



APPLICANT:	Brant Harvey 360 Main ST Unit 2500 Winnipeg , Manitoba R3C 4H6
OWNER:	STEPHEN DZIVER 6 KINGSBOROUGH DR Winnipeg , Manitoba R3P 1H7

RECOMMENDATION: Approval with conditions

SITE DESCRIPTION

The subject property is located on the southwest corner of Oxford Street and Grant Avenue, in the South River Heights neighbourhood of the River Heights - Fort Garry ward.

The site is designated as being within a Mature Community under the *Complete Communities Direction Strategy*. The property is zoned "R1-M" – Residential Multifamily – Medium, and is 5,074 sq. ft. in size. It is currently occupied by a one-storey dwelling containing a Massage Therapy Clinic.

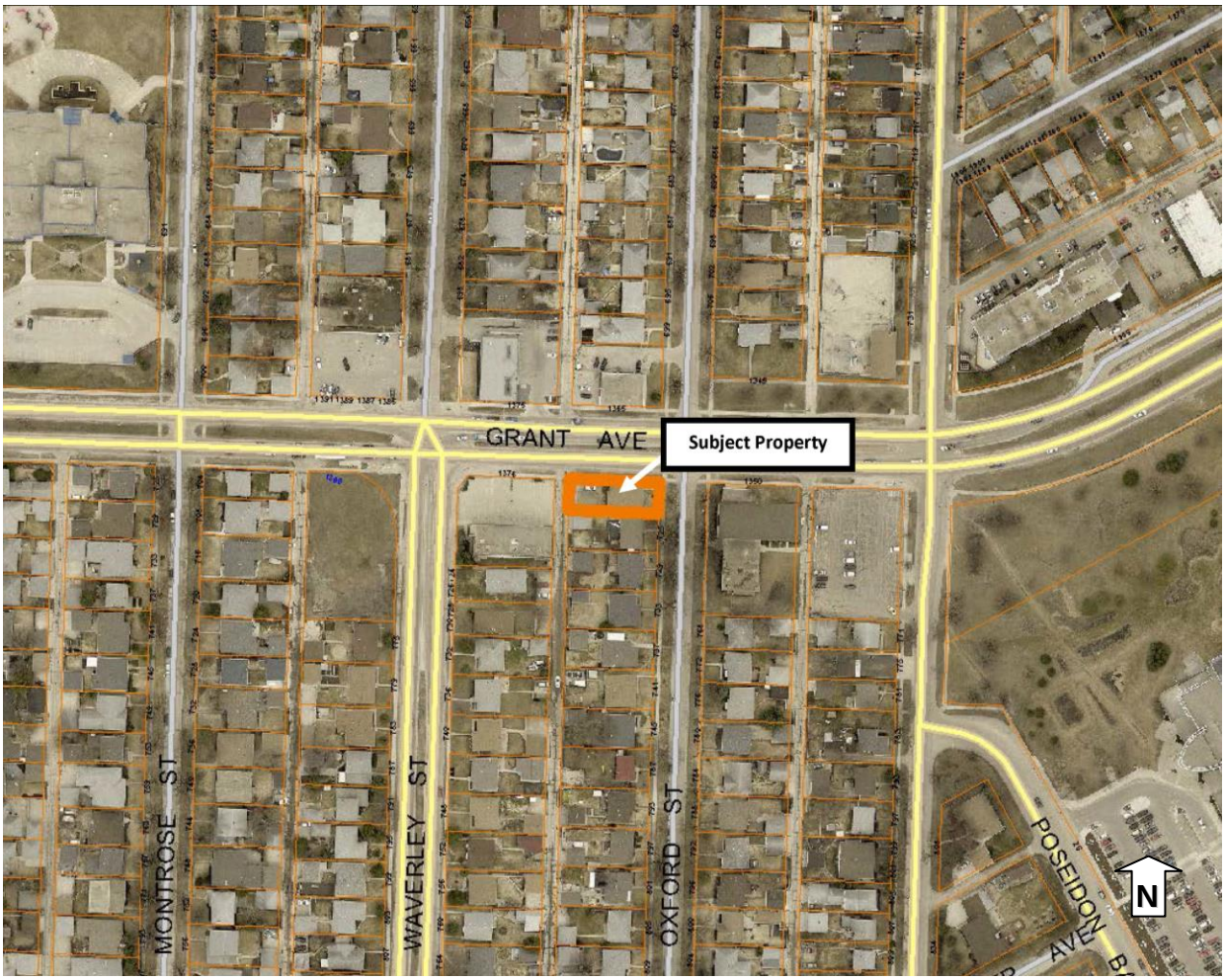


Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2016)*

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Grant Avenue, then office uses (Zoned "C1" – Commercial Neighbourhood)

South: Single family dwelling uses (Zoned "R1-M" – Residential Single Family – Medium)

East: Oxford Street, then Place of Worship uses (Zoned "R1-M" – Residential Single Family – Medium)

West: Public lane, then office uses (Zoned "C1" – Commercial Neighbourhood)

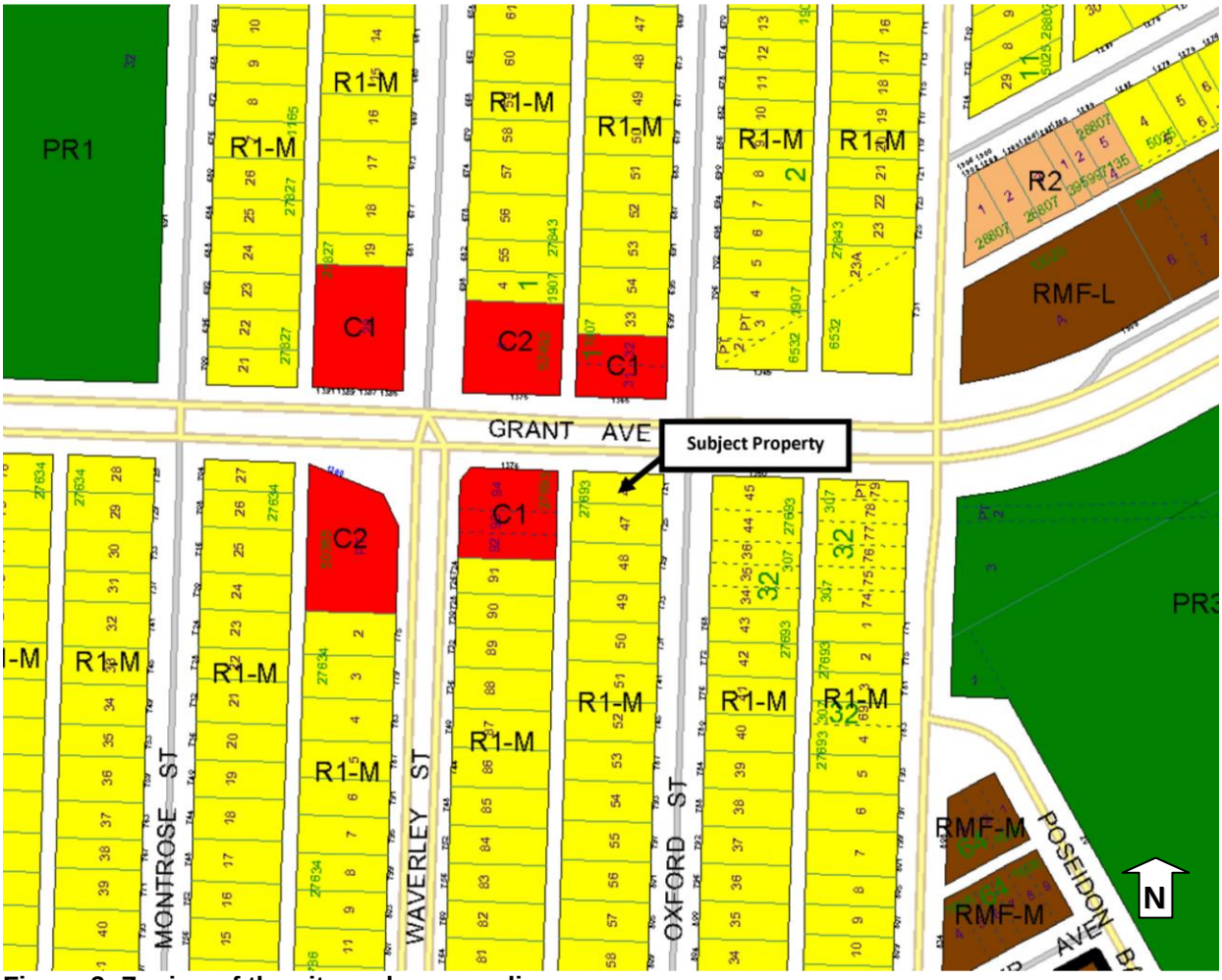


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant proposes to maintain an existing Personal Service use (Massage Therapy Clinic) on the subject property.

The existing building is being retained.

The following are summarized points from the applicant regarding their intentions:

- The demand for Massage Therapy and Health and Wellness has grown.

- An immediate need is to add a full time receptionist; and an additional therapist within 6 months.
- In the future should demand continue to grow, some of the available space on the lower level may be utilized, as permitted.
- Further into the future there could be interest in doing renovations and updates to the property. If so, there would be close work with the City and its planners to make the look and feel appropriate for the context.

REASON FOR APPLICATION

Due to a planned increase in capacity, the clinic will no longer qualify as a Home Based Business. The applicant is therefore proposing to rezone the property from "R1-M" – Residential Single Family - Medium to "C1" – Commercial Neighbourhood. "C1" accommodates a Massage Therapy Clinic, which is classified under the Winnipeg Zoning By-Law as a Personal Service.

"CI" zoning allows for a Personal Service up to 5,000 sq. ft. in size. The clinic will be less than half this allowable maximum size (it will be 1,090 sq. ft. if limited to the main floor, and 2,180 sq. ft. if expanded to include the basement level).

ANALYSIS AND ISSUES

Complete Communities Direction Strategy

As per the *Complete Communities Direction Strategy,* the proposed development falls within the Areas of Stability – Mature Communities policy area. Key policies guiding development within Areas of Stability include:

- *Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.*

  The proposal maintains the existing structure and in doing so retains a complimentary form that has existed onsite for many years.

- *Support a mix of commercial services and employment uses that serve the local community.*

  The proposal formalizes a small scale commercial use that has served the community in this location for several years.

- *Encourage intensification to occur at centres and along corridors.*

  Grant Avenue is an arterial street, and the subject property is within a commercial node on the street.

- *Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.*

  The proposal maintains the existing structure and in doing so retains a complimentary form that has existed onsite for many years.

Parts of Grant Avenue also display characteristics of Mixed Use Corridors. Direction 1 of Corridors in the *Complete Communities Direction Strategy* states:

- *Focus a broad mix of residential, employment and retail development within strategic locations along Corridors.*

  The proposal formalizes an existing small-scale commercial use within a commercial node on the corridor.

For the above reasons, the proposal aligns with policy intentions of *Complete Communities*.

Winnipeg Zoning By-Law

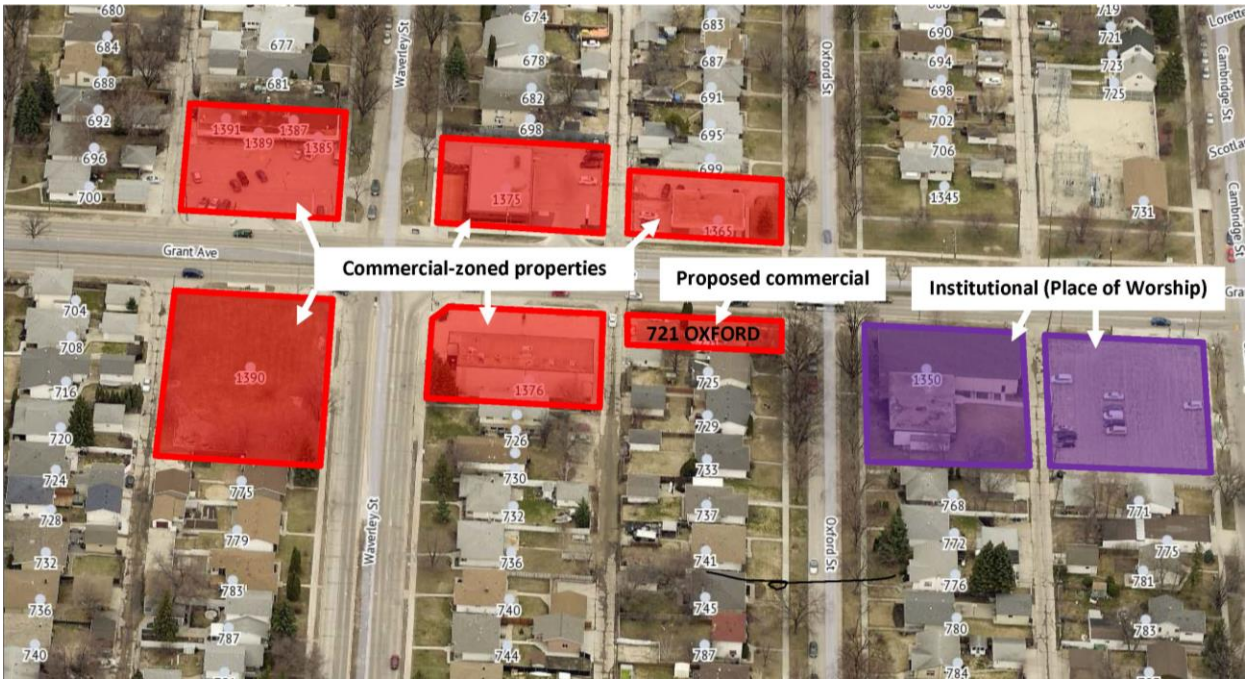
PDO-1 Airport Vicinity Protection Area

The "C1 PDO-1 Airport Vicinity Protection Area Commercial Neighbourhood" contains no restrictions or regulations regarding commercial zoning or development.

Rezoning

As shown on Figure 3, the property is located within a commercial node on Grant Avenue. The property is adjacent to commercial development across Grant Avenue, and to the west. The property is adjacent to a place of worship to the east, which serves as a land use transition between this property and residential development further east.

The proposed clinic is a small-scale commercial use. The property's small size and limited space for parking will help to ensure that only small-scale commercial uses will exist on the property in the future as well.



OTHER CONSIDERATIONS

Neighbourhood Compatibility

As noted above, the clinic will be less than half the allowable maximum size for a Personal Service in the “C1” district even if both levels of the building are utilized. In the future, should the site be redeveloped, it will require plan approval by the Department and City Centre Community Committee (see Zoning Agreement for more information). This will help ensure the property maintains compatibility with the neighbourhood.

To enhance pedestrian-oriented design along Grant Avenue, the Urban Planning Division has placed a condition on the variance (Associated File No. DAV 17-174014D) that the developer provide a wrought-iron style fence and a row of shrubs to screen the parking area from view of the street.

Zoning Agreement

The Urban Planning Division recommends a Zoning Agreement restricting animal hospitals, veterinary clinics and kennels from being established on the property; and to make restaurants a conditional use (requiring review by the Urban Planning Division). Drinking establishments are already prohibited in the “C1” district so would not be allowed to establish here.

The applicant indicates they have no immediate plans to redevelop the site. However in the event the site is redeveloped in the future, the Division has included a plan approval condition to require that such plans would first be approved by the Department and the City Centre Community Committee.

Public Consultation
The applicant provided written support from the immediate neighbour (725 Oxford Street) regarding the proposal.

SUMMARY

The Urban Planning Division supports the rezoning for the following key reasons:

- The proposal formalizes a small-scale commercial use that has served the community in this location for several years.
- The location is within a commercial 'node' on Grant Avenue and the Division believes that it is suitable for rezoning to "C1", with limits on uses in the Zoning Agreement.
- Should the property be redeveloped in the future, the plans would be reviewed for suitability by the Division and the Community Committee.

RECOMMENDATIONS
The Urban Planning Division recommends that the application be approved with conditions and that the subject property be rezoned to a "C1 PDO-1 Airport Vicinity Protection Area Commercial Neighbourhood" District.

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

Report Prepared by:
Andrew Ross, RPP, MCIP
PPD File # DAZ 221/2017 – 721 Oxford St.

Schedule “A” for File No. DAZ 221/2017, City Centre Community Committee, April 10, 2018

By-Law No. _____

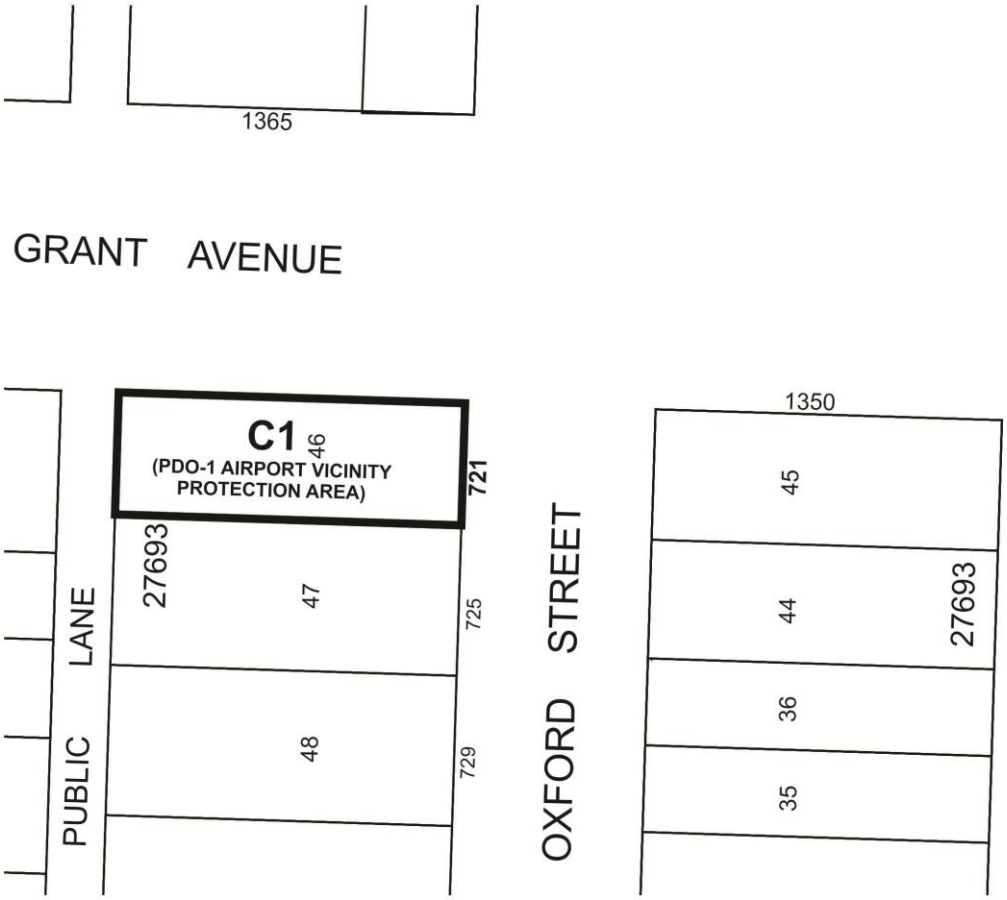
File No. **DAZ 221/17**

Atlas Sheet No. **AE22 CC**

N

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 721 Oxford Street from an “R1-M PDO-1 AIRPORT VICINITY” RESIDENTIAL SINGLE-FAMILY (MEDIUM) DISTRICT to a “C1 PDO-1 AIRPORT VICINITY” COMMERCIAL NEIGHBOURHOOD DISTRICT to allow for the establishment of a Personal Service use.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Exhibit " 7 " referred to in File DAZ 221/2017

