Agenda - Council - March 24, 2004

Report - Standing Policy Committee on Property and Development - March 2, 2004

Item No. 6 Rezoning - 363 Wardlaw Avenue
File DAZ 200/2004

STANDING COMMITTEE RECOMMENDATION:

On March 17, 2004, 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. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 200/2004 dated February 6, 2004, 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 land be limited to the following:

         a. licensed restaurant
         b. dwellings

      ii. That restaurant be limited to the main floor with maximum seating for 32 patrons.

      iii. That the hours of public operation of the restaurant be limited to between the hours of 11:30 a.m. and 11:00 pm daily.

      iv. That facia signs be allowed on the east elevation of the building only, and that mobile signs and temporary signs be prohibited on the property.

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 - March 2, 2004

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.

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 - March 2, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 17, 2004, 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 March 2, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee with the following amendment, namely:

- Recommendation 1.A.iv.
  Delete the words “free-standing signs,”

and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On February 17, 2004, the City Centre Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 363 Wardlaw Avenue**
File DAZ 200/2004 [c/r DAV 100550/2004D]

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

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

Report date: **February 19, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 17, 2004, the City Centre Community Committee concurred in the administrative recommendation 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 200/2004, dated February 6, 2004, 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 land be limited to the following:

            a. licensed restaurant
            b. dwellings

        ii. That restaurant be limited to the main floor with maximum seating for 32 patrons.

        iii. That the hours of public operation of the restaurant be limited to between the hours of 11:30 a.m. and 11:00 pm daily.

        iv. That facia signs be allowed on the east elevation of the building only, and that free-standing signs, mobile signs and temporary signs be prohibited on the property.

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.

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 reason(s) for its recommendation:

1. The City Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated February 6, 2004.

PUBLIC HEARING SUMMARY

File: DAZ 200/2004 [c/r DAV 100550/2004D]

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

Public Hearing: February 17, 2004
Council Building, 510 Main Street

Applicant: Ioan and Margaret Schiop

Subject:



APPLICANT : I. and M. SCHIOP
FILE : DAZ 200/04
PROPOSAL : To rezone the land shown outlined above from an "RM-4" MULTIPLE-FAMILY DISTRICT to a "C1.5" COMMERCIAL DISTRICT to allow for the re-establishment of a restaurant with an accessory single-family dwelling. **For information, phone Mr. R. Mitchell, Planner at 986-5017.**

Premises Affected: 363 Wardlaw Avenue, northwest corner at Scott Street

Exhibits Filed:

1. Application dated January 12, 2004
2. Notification of Public Hearing dated January 19, 2004
3. Manitoba Status of Title(s) 1235089
4. Surveyor's Building Location Certificate and sketch undated
5. Letter of intent dated January 7, 2004
6. Extract of Atlas Sheet AB24

7. Variance Order DAV 512/96C
8. Conditional Use Order DCU 88/96C
9. Variance Order DAV 384/98C
10. Drawing of subject property
11. Plans (3 pages)
12. Report from the Manager of Planning and Land Use dated February 6, 2004
13. Inspection Report

REPRESENTATIONS:

In Support:

Ioan Schiop

In Opposition:

Nil

For the City:

Jacqueline East, Coordinator Urban and Neighbourhood Planning,
Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Ioan Schiop appeared in support of the application.

Exhibit "12" referred to in File DAZ 200/2004

In reply please refer to / Référence à rappeler :

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

File No. DAZ 200/04 February 6, 2004
Our c/f CP 500 (.111)

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

Dear Ms. Marques:

REZONING
363 Wardlaw, northwest corner at Scott Street
City Centre Community Committee
File No. DAZ 200/04

An application has been received from Ioan and Margaretta Schiop, to amend By-Law No. 6400/94 by rezoning the land shown below from a/an "RM-4" Multiple-Family District to a/an "C1.5" Commercial District to allow for the re-establishment of a restaurant with an accessory single-family dwelling.

RELATED FILES: DAV 04-100550D



SITE DESCRIPTION:

Site Area: 45' by 7.2'; 3,564 square feet

Existing Land Use and Zoning: Single-family dwelling zoned "RM-4"

Surrounding Land Use and Zoning:

North: Kathanan Grocery Store and accessory apartment, zoned "RM-4"
South: Across Wardlaw, single-family housing zoned "RM-4"
East: Across Scott Street, Braemar Village Restaurant (cabaret) zoned "C1.5"
West: Single-family housing zoned "RM-4".

DEVELOPMENT DESCRIPTION:

The subject building was constructed as a two-storey wood frame house. In 1996, conditional use approval was received for the establishment of a bed and breakfast use, and for a licensed dining room with a trial period of two years and limits on seating (32) and hours (11:30 am – 11:00 pm. The owners subsequently opened a restaurant, Bobbie's Fine European Dining, at 754 St. Mary's Road. They now wish to re-establish a restaurant at the subject location and require a rezoning to do so.

The proposal is to operate the restaurant from the main floor with a residence on the second floor. The restaurant area is about 1,100 square feet. The site provides parking for 3 vehicles with access off Scott Street.

PLAN WINNIPEG:

The application is allowed under Plan Winnipeg.

ADMINISTRATIVE COMMENTS:

The previous restaurant operated without complaint to the Planning and Land Use Division. The Zoning Agreement can be used to ensure that the restaurant remains at a neighbourhood scale and subject to limitations on seating and hours. The proposal is not out-of-character with the mixed-use development along Scott Street. Customers will, however, have to use the on-street parking afforded by Wardlaw Avenue and Scott Street. This situation will be inconvenient for area residents who already tolerate the activity generated by other commercial developments in the neighbourhood. The public hearing for this application will provide residents the opportunity to voice any complaints or concerns. The Division is prepared to support this application with neighbourhood concurrence.

RECOMMENDATION:

I. That By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 200/04, attached hereto and dated February 6, 2004, 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 Act, to provide for the following:

2. That the use of the land be limited to the following:
    a. licensed restaurant
    b. dwellings

3. That restaurant be limited to the main floor with maximum seating for 32 patrons.

4. That the hours of public operation of the restaurant be limited to between the hours of 11:30 a.m. and 11:00 pm daily.

5. That facia signs be allowed on the east elevation of the building only, and that free-standing signs, mobile signs and temporary signs be prohibited on the property.

II. That a 10 per cent 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.

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

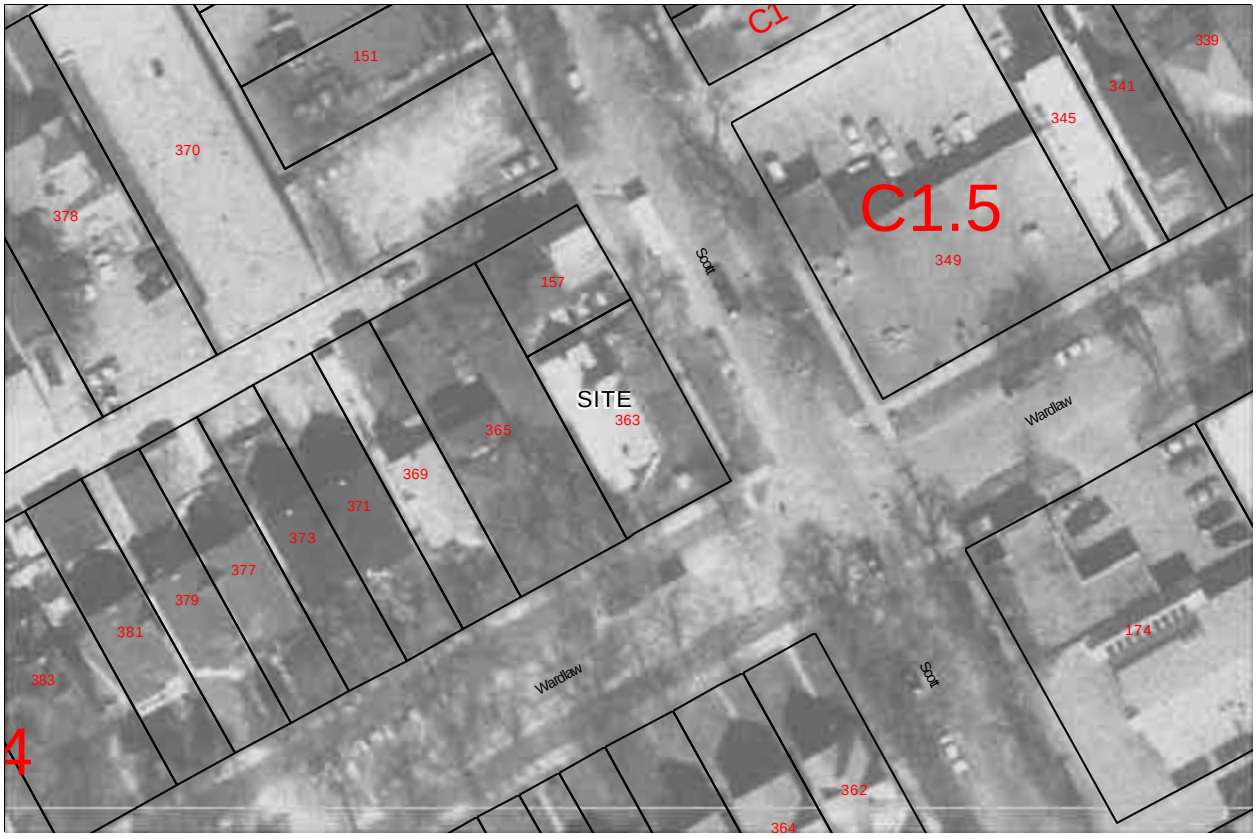

Figure 1: Air Photo of site.

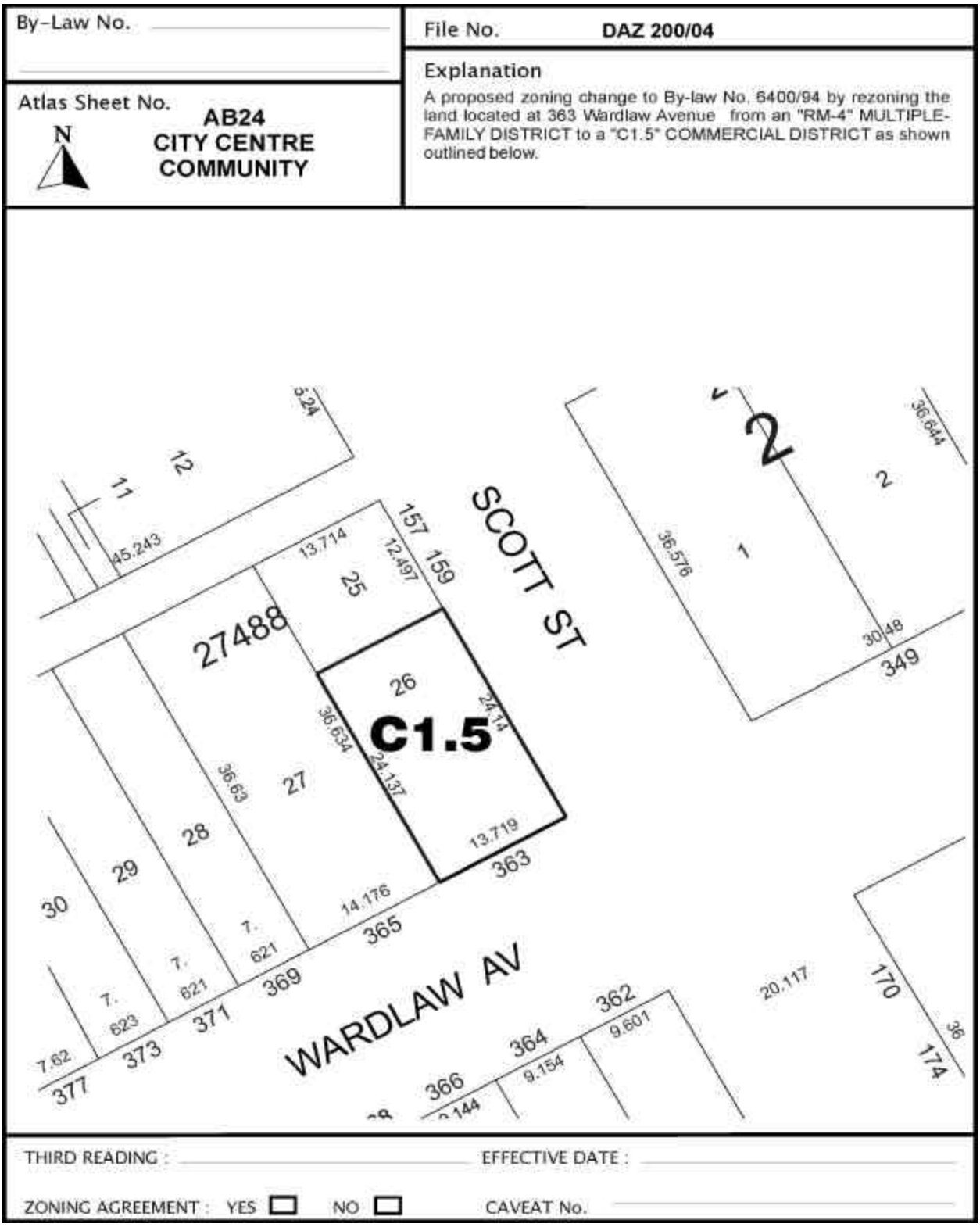

Figure 2: Schedule "A" to the report to the City Centre Community Committee for File No. DAZ 200/04, dated February 6, 2004.