Minute No. 368
Report - Standing Policy Committee on Property and Development - April 27, 2004

Item No. 9 Rezoning - 20 Maryland Street
File DAZ 206/2004

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, as amended, 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 206/2004 dated March 17, 2004, to a "C2" 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. automobile repair, service, installation of supplies/parts
            b. automobile rental, sales
            c. automobile supplies/parts sales
            d. fuel sales

        ii. That a fencing plan for the Woodrow Place and Maryland Avenue frontages be submitted to and approved by the Director of Planning, Property and Development by June 30, 2004, and the fencing be installed by September 30, 2004, and maintained thereafter to the satisfaction of the Director of Planning, Property and Development.

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.

Report - Standing Policy Committee on Property and Development - April 27, 2004

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 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 - April 27, 2004

DECISION MAKING HISTORY:

Moved by Councillor Pagtakhan,

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

Carried

STANDING COMMITTEE RECOMMENDATION:

On April 27, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee with the following amendments, namely:

- Recommendation 1.A.ii.

  Delete the word "City" in the second line and replace it with "Director of Planning, Property and Development"

  Delete the word "satisfactorily" in the third line and

  Add the words "to the satisfaction of the Director of Planning, Property and Development" after the word "thereafter" in the fourth line.

- Delete recommendation 2 in its entirety and replace it with the following:

  "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."

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

Report - Standing Policy Committee on Property and Development - April 27, 2004

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION:

On April 13, 2004, the City Centre Community Committee concurred in the administrative recommendation, with the following amendment, namely:

- Delete Recommendation 2 in its entirety and replace it with the following new recommendation, namely:

  "2. That the ten percent (10%) requirement for land dedication based on the increase in the market value of the land be waived in this instance."

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

RE: **Rezoning - 20 Maryland Street**
File DAZ 206/2004 [c/r DAV 111286/2004D]

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

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

Report date: **April 16, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 13, 2004, 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 206/2004, dated March 17, 2004, to a "C2" 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. automobile repair, service, installation of supplies/parts
            b. automobile rental, sales
            c. automobile supplies/parts sales
            d. fuel sales

        ii. That a fencing plan for the Woodrow Place and Maryland Avenue frontages be submitted to and approved by the City by June 30, 2004, and the fencing be installed by September 30, 2004, and satisfactorily maintained thereafter.

~~***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.***~~

2. That the ten percent (10%) requirement for land dedication based on the increase in the market value of the land be waived in this instance.

3. 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.

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 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.

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 City Centre Community Committee recommends that the requirement of the land dedication payment be waived in this instance because the restricted use contained in the rezoning agreement would not create an increase in the market value of the land.

PUBLIC HEARING SUMMARY

File: DAZ 206/2004 [c/r DAV 111286/2004D]

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

Public Hearing: April 13, 2004
North Committee Room
Council Building, 510 Main Street

Applicant: Ray James Dansereau

Subject:



CITY CENTRE COMMUNITY

APPLICANT : RAY JAMES DANSEREAU

FILE : DAZ 206/04

PROPOSAL : To rezone the land shown outlined above from an "RM-4" MULTIPLE-FAMILY DISTRICT to a "C2" COMMERCIAL DISTRICT to allow for the maintenance of an automobile sales use in conjunction with an existing, non-conforming auto service use. **For information, phone Mr. R. Mitchell, Planner at 986-5017.**

Premises Affected: 20 Maryland Street

Exhibits Filed:

1. Application dated February 25, 2004
2. Notification of Public Hearing dated March 1, 2004
3. Manitoba Status of Title(s) 1487593
4. Surveyor's Building Location Certificate and sketch dated June 9, 1989

5. Extract of Atlas Sheet AB23
6. Variance Order DAV 589/89
7. Report from the Manager of Planning and Land Use dated March 17, 2004
8. Inspection Report

REPRESENTATIONS:

In Support:

Ray James Dansereau

In Opposition:

Nil

For the City:

Mr. R. Mitchell, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Ray James Dansereau, appeared in support of the application. Mr. Dansereau stated concerns with recommendation 2 of the report of the Manager of Planning and Land Use, and the requirement of a ten percent (10%) payment in dedication as the application present would not result in an increase in the market value of the land.

The Senior Planner advised that Community Committee could recommend that the payment be waived because the use is restricted by the rezoning agreement.

Mr. Dansereau inquired as to the requirement of a fence on the Woodrow Place side of the property.

Councillor Gerbasi inquired as to whether there were residences on that side of the property.

Mr. Dansereau stated that there was a school yard on the other side of Woodrow Place.

Councilor Smith stated that it was preferable to place a fence on that side.

Exhibit "7" referred to in File DAZ 206/2004 [c/r DAV 589/89, DAV 111286/2004D]

In reply please refer to / Référence à rappeler :

Ross Mitchell
(204) 986-5017
Fax / Téléc.: (204) 986-7524

File No. DAZ 206/04 March 17, 2004
Our c/f CP 500 (.113)

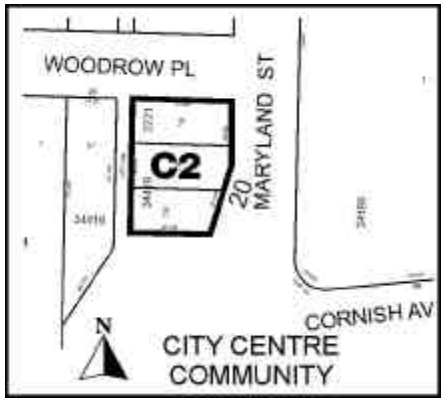
Josie Marques
City Centre Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms Marques:

REZONING
20 Maryland Street
City Centre Community Committee
File No. DAZ 206/04

An application has been received from Ray James Dansereau, to amend By-Law No. 6400/94 by rezoning the land shown below from a "RM-4" Residential District to a "C2" Commercial District to allow for the establishment of automobile sales in conjunction with an existing non-conforming auto-service use.

RELATED FILES: DAV 04-111286/D



SITE DESCRIPTION:

Site Area: Irregular lot size, with an estimated area of 1170.24 square meters (12,596.36 square feet or 0.29 acres).

Existing Land Use and Zoning: The property has been used as a non-conforming gas and auto service station. The applicant wishes to add automobiles sales on the subject property. The site is currently zoned "RM-4" Residential Multiple Family Zoning.

Surrounding Land Use and Zoning:

North: On the north side of Woodrow Place is the schoolyard of Mulvey School
South: South is a public park and the Maryland Bridge
East: Located on the east side of Maryland Street is the Misericordia Health Centre
West: Adjacent to the west of the subject site is a three and one-half storey multiple family dwelling

DEVELOPMENT DESCRIPTION:

The applicant wishes to establish an automobile sales use in conjunction with an existing non-conforming auto-service station on the subject site. This requires a rezoning from "RM-4" Residential Multiple Family District to "C2" Commercial Zoning District.

PLAN WINNIPEG:

The proposed concept complies with Plan Winnipeg in that a commercial rezoning is allowed in the Neighbourhood Policy Areas.

ADMINISTRATIVE COMMENTS:

The proposed rezoning to a "C2" Commercial District is compatible with the area. The building and the auto-service station use have existed for some time with non-conforming rights. The site is suitable for commercial rezoning in view of its location on a regional street across from the Misericordia Hospital. The business provides a service to the neighbourhood and cars have been offered for sale on the site for some time. It is recommended that the use of the land be limited to the scope of services provided by the current business. Should the business vacate the site, the Zoning Agreement could be amended to provide for a wider range of commercial uses provided they are compatible with the residential environment to the west.

The site landscaping is substandard in terms of the current by-law requirements. For instance, there is no fencing or landscaping along Maryland and Woodrow Place. Wolseley is a pedestrian neighbourhood and the Maryland Street Bridge is a popular river crossing point for cyclists and joggers accessing the Wolseley/Wellington bike paths. The Department is requesting that ornamental wooden fencing or, alternatively, post and chain fencing with concrete curb stops, be installed along Maryland and Woodrow to provide a safety barrier where cars will be parked against the public sidewalk.

RECOMMENDATION:

I. That By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 206/04, attached hereto and dated March 17, 2004, to a "C2" Commercial District, subject to the following:

B. 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:

1. That the use of the land be limited to the following:

- automobile repair, service, installation of supplies/parts
- automobile rental, sales
- automobile supplies/parts sales
- fuel sales

2. That a fencing plan for the Woodrow Place and Maryland Avenue frontages be submitted to and approved by the City by June 30/04, and the fencing be installed by Sept 30/04 and satisfactorily maintained thereafter.

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 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 Charter.

Yours truly,

C. Knoll
Manager of Planning and Land Use

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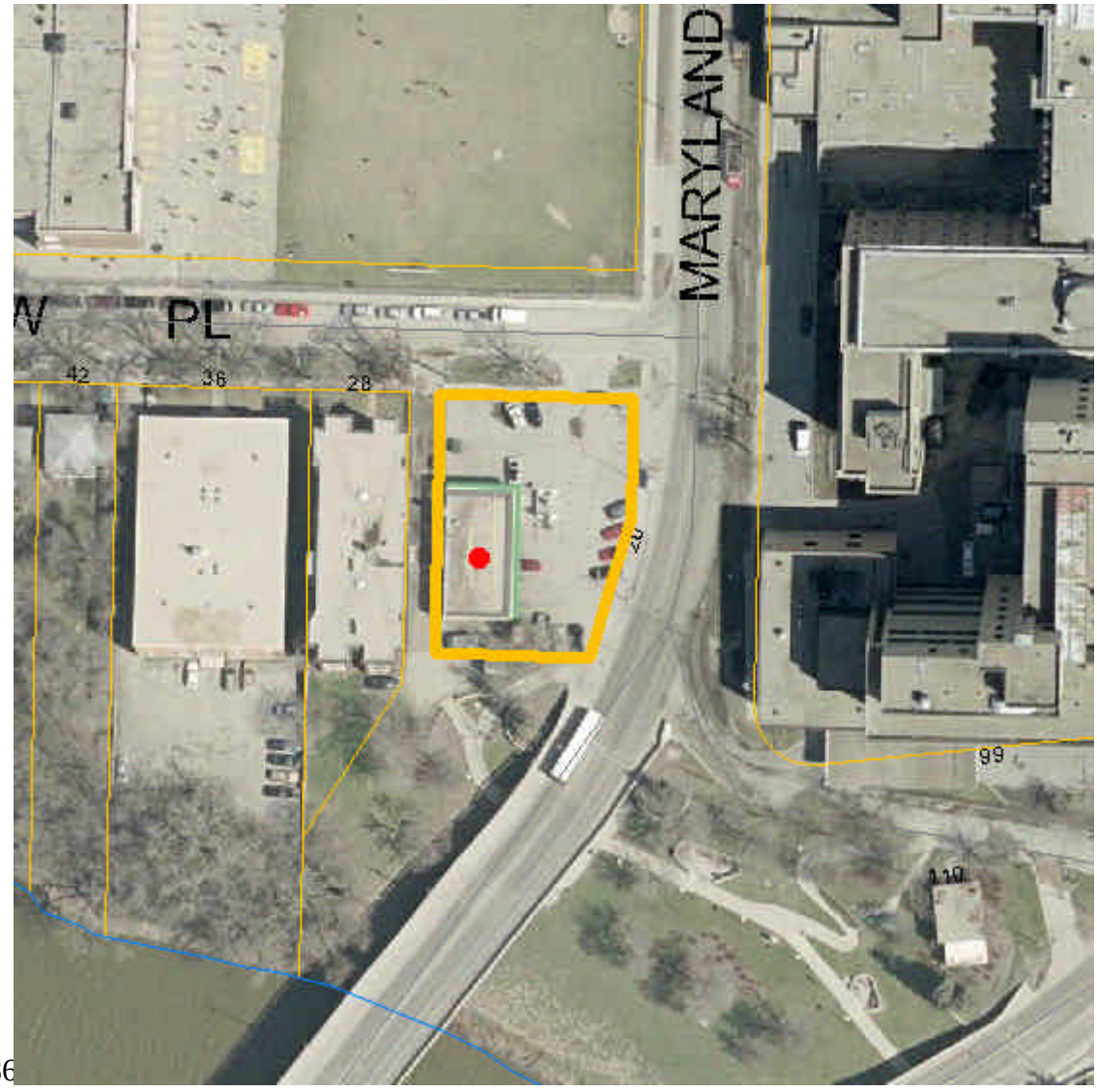

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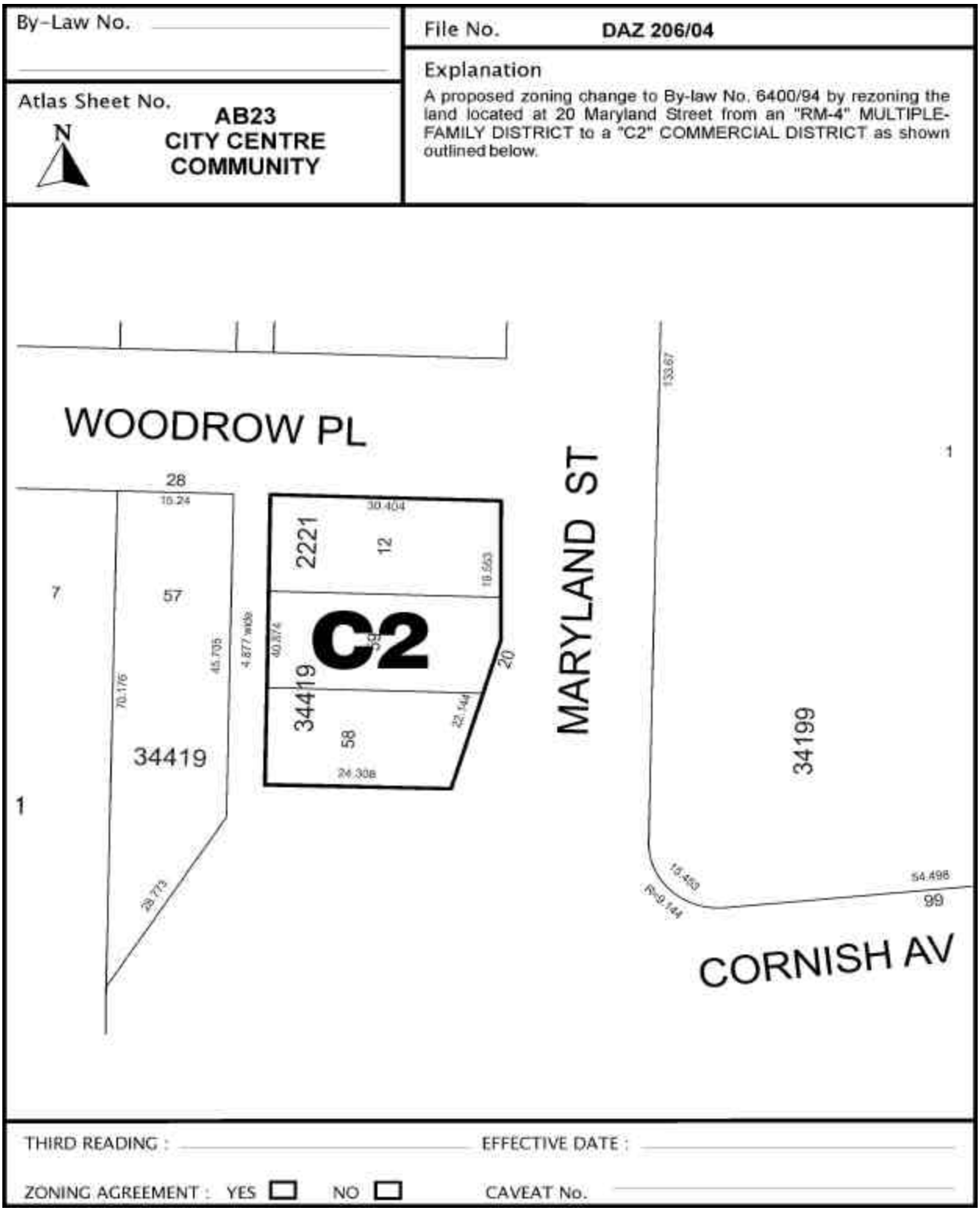

Figure 1: Schedule "A" to the report to the City Centre Community Committee for File No. DAZ 206/04, dated March 17, 2004.