Agenda - Executive Policy Committee - November 17, 2004

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

Item No. 8 Rezoning - 550 Academy Road
File DAZ 254/2004

STANDING COMMITTEE RECOMMENDATION:

On November 2, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of 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 254/2004 dated October 5, 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 following uses be prohibited on the premises:

            a. Auction room
            b. Audio-visual recordings: rental, sales
            c. Automobile, including motorcycle: rental, sales, repair, service
            d. Automobile, including motorcycle: supplies/parts, sales
            e. Beer sales as a principal use
            f. Bingo parlour
            g. Boat: sales/service
            h. Bowling alley
            i. Building materials
            j. Bus station
            k. Catering, commissary
            l. Church, synagogue
            m. Clothing, manufacture
            n. Communication equipment: rental, sales, service
            o. Contractors establishment
            p. Convenience store
            q. Dispatch for courier/delivery/express etc.
            r. Driving school
            s. Exterminator
            t. Farm supplies
            u. Flea market

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

v. Fuel: sales
w. Funeral chapel/parlour/mortuary
x. Hotel
y. Landscape/garden supplies: sales
z. Liquor: sales, as a principal use
aa. Parking area, non-accessory
bb. Signage: manufacture, rental, sales
cc. Tires: sales, service

ii. That pylon signs, third party advertising signs, temporary signs and mobile signs be prohibited on the property.

iii. That any building structures located within the seven (7) foot special front yard to accommodate the future widening of Academy be removed upon the request of the City of Winnipeg.

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 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.

Agenda - Executive Policy Committee - November 17, 2004

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

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On November 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 5
  Delete the words “as a first charge” in the second line,

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

COMMUNITY COMMITTEE RECOMMENDATION:

On October 19, 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 - 550 Academy Road**
File DAZ 254/2004 [c/r DCU 323747/2004D, DAV 323858/2004D]

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

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

Report date: **October 22, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On October 19, 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 254/2004 dated October 5, 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 following uses be prohibited on the premises:

            a. Auction room
            b. Audio-visual recordings: rental, sales
            c. Automobile, including motorcycle: rental, sales, repair, service
            d. Automobile, including motorcycle: supplies/parts, sales
            e. Beer sales as a principal use
            f. Bingo parlour
            g. Boat: sales/service
            h. Bowling alley
            i. Building materials
            j. Bus station
            k. Catering, commissary
            l. Church, synagogue
            m. Clothing, manufacture
            n. Communication equipment: rental, sales, service
            o. Contractors establishment
            p. Convenience store
            q. Dispatch for courier/delivery/express etc.
            r. Driving school

s. Exterminator
t. Farm supplies
u. Flea market
v. Fuel: sales
w. Funeral chapel/parlour/mortuary
x. Hotel
y. Landscape/garden supplies: sales
z. Liquor: sales, as a principal use
aa. Parking area, non-accessory
bb. Signage: manufacture, rental, sales
cc. Tires: sales, service

ii. That pylon signs, third party advertising signs, temporary signs and mobile signs be prohibited on the property.

iii. That any building structures located within the seven (7) foot special front yard to accommodate the future widening of Academy be removed upon the request of the City of Winnipeg.

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 reasons for its recommendation:

1. The City Centre Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated October 5, 2004.

2. This development will be a genuine addition to the Academy Road.

PUBLIC HEARING SUMMARY

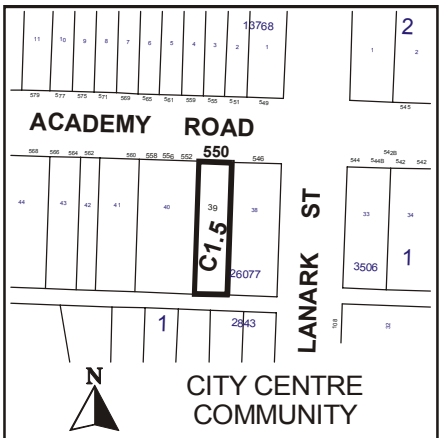
File: DAZ 254/2004 [c/r DCU 323747/2004D, DAV 323758/2004D]

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

Public Hearing: October 19, 2004
Council Building, 510 Main Street

Applicant: Commercial Upgrade Construction (Ken Reeder)

Subject:



APPLICANT : COMMERCIAL UPGRADE CONSTRUCTION
FILE : DAZ 254/04
PROPOSAL : To rezone the land shown outlined above from a "C1" COMMERCIAL DISTRICT to a "C1.5" COMMERCIAL DISTRICT.
For information, phone Mr. R. Mitchell, Planner at 986-5017.

Premises Affected: 550 Academy Road

Exhibits Filed:

1. Application dated August 31, 2004
2. Notification of Public Hearing dated September 14, 2004
3. Manitoba Status of Title(s) 2004227
4. Surveyor's Building Location Certificate and sketch dated November 28, 1978

5. Letter of authorization dated August 18, 2004 from Scot McTaggart, President, 3488404 Manitoba, Ltd., to Ken Reeder, Commercial Upgrade Construction
6. Extract of Atlas Sheet AC20
7. Drawing of subject property
8. Plans (5 pages)
9. Report from the Manager of Planning and Land Use dated October 5, 2004
10. Inspection Report
11. Plan (1 page) submitted by applicant at the public hearing on October 19, 2004.

REPRESENTATIONS:

In Support:

Scot McTaggart
Ken Reeder, Commercial Upgrade Construction

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

Ken Reeder, Commercial Upgrade Construction accompanied by Scot McTaggart, appeared in support of the application. Mr. Reeder gave a brief overview on the proposal and submitted a plan (1 page) filed as Exhibit 11.

Exhibit "9" referred to in File DAZ 254/2004 [c/r DAV 323758/2004D, DCU 323747/2004D]

In reply please refer to / Référence à rappeler: **Ross Mitchell**
(204) 986-5017
Fax / Téléc.: (204) 986-7524

File No. DAZ 254/04 (c/r DCU 04-323747D; DAV 04-323747D) October 5, 2004
Our c/f CP 500 (.626)

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

Dear Ms. Marques:

REZONING
Location: 550 Academy, south side between Lanark and Beaverbrook Community Committee
File No. DAZ /04

An application has been received from Commercial Upgrade Construction (Ken Reeder), to amend By-Law No. 6400/94 by rezoning the land shown below from a "C1" Commercial District to a "C1.5" Commercial District to allow for the expansion of an existing restaurant and the establishment of a cocktail lounge use.

RELATED FILES: DCU 04-323747D; DAV 04-323747D



SITE DESCRIPTION:

Site Area: 33' by 133'; about 4,390 square feet.

Existing Land Use and Zoning: Two-storey building containing a restaurant zoned "C1" Commercial District.

Surrounding Land Use and Zoning: Single-family housing fronting Lanark zoned "R1-4A" Single-Family Residential District; Commercial development fronting Academy zoned "C1" Commercial District.

DEVELOPMENT DESCRIPTION:

The building contains the Fusion Grill, which currently seats 40 patrons on the main floor. The owner wishes to expand to the second floor with additional restaurant area for private functions, a cocktail lounge and a seasonal deck. The restaurant alterations would also involve entrance changes and a new roof sign. The site provides parking off the back lane for 4 vehicles.

The rezoning to "C1.5" is required because the current zoning does not permit cocktail lounges nor restaurants over 1,500 square feet of gross floor area. The Conditional Use application is required because cocktail lounges, and restaurants over 2,500 square feet, are a Conditional Use in "C1.5" zoning districts. The application has also triggered a number of zoning variances. The Division is supporting the application in its entirety.

PLAN WINNIPEG:

The application complies with Plan Winnipeg.

ADMINISTRATIVE COMMENTS:

The Planning and Land Use Division is prepared to support this application. The Division is of the opinion that the proposed changes, while increasing the commercial activity on the site, are principally aimed at improving service to the restaurant's exiting clientele. The owner indicates that the restaurant currently seats 41 patrons with hours from 11:30 a.m. to 2:30 p.m. and from 5:30 p.m. to 10:00 p.m. Tuesday through Saturday. The restaurant also holds corporate and private functions, which require that the restaurant be closed to the general public on such occasions. This creates confusion for the public and scheduling problems for the business. The proposed improvements would enable the restaurant to remain open to the public while private functions are occurring on the second floor. The seasonal deck, cocktail lounge, and entrance improvements are additional features aimed at improving the operations and dining experience at the restaurant. The use of the building as a restaurant predates the current business and the restaurant provides a valued neighbourhood service. A Zoning Agreement will be recommended that will prohibit "C1.5" used that are not suitable for the property or could have detrimental impacts on the surrounding neighbourhood. In addition, the Division is recommending that, if

approved, the Conditional Use order include conditions restricting restaurant occupancy (maximum 80) and hours-of-operation (midnight closings).

RECOMMENDATION:

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 254/04, attached hereto and dated October 5, 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:

2. That the following uses be prohibited on the premises:

a. Auction room
b. Audio-visual recordings: rental, sales
c. Automobile, including motorcycle: rental, sales, repair, service
d. Automobile, including motorcycle: supplies/parts, sales
e. Beer sales as a principal use
f. Bingo parlour
g. Boat: sales/service
h. Bowling alley
i. Building materials
j. Bus station
k. Catering, commissary
l. Church, synagogue
m. Clothing, manufacture
n. Communication equipment: rental, sales, service
o. Contractors establishment
p. Convenience store
q. Dispatch for courier/delivery/express etc.
r. Driving school
s. Exterminator
t. Farm supplies
u. Flea market
v. Fuel: sales
w. Funeral chapel/parlour/mortuary
x. Hotel
y. Landscape/garden supplies: sales
z. Liquor: sales, as a principal use
aa. Parking area, non-accessory
bb. Signage: manufacture, rental, sales
cc. Tires: sales, service

3. That pylon signs, 3rd party advertising signs, temporary signs, and mobile signs be prohibited on the property.

4. That any building structures located within the 7-foot special front yard to accommodate the future widening of Academy be removed upon the request of the City of Winnipeg.

II. That a ten (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/Manager of Legal Services 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/Manager of Legal Services 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

_____

Per: Ross Mitchell, Senior Planner
(City Centre Community)
986-5017

3130

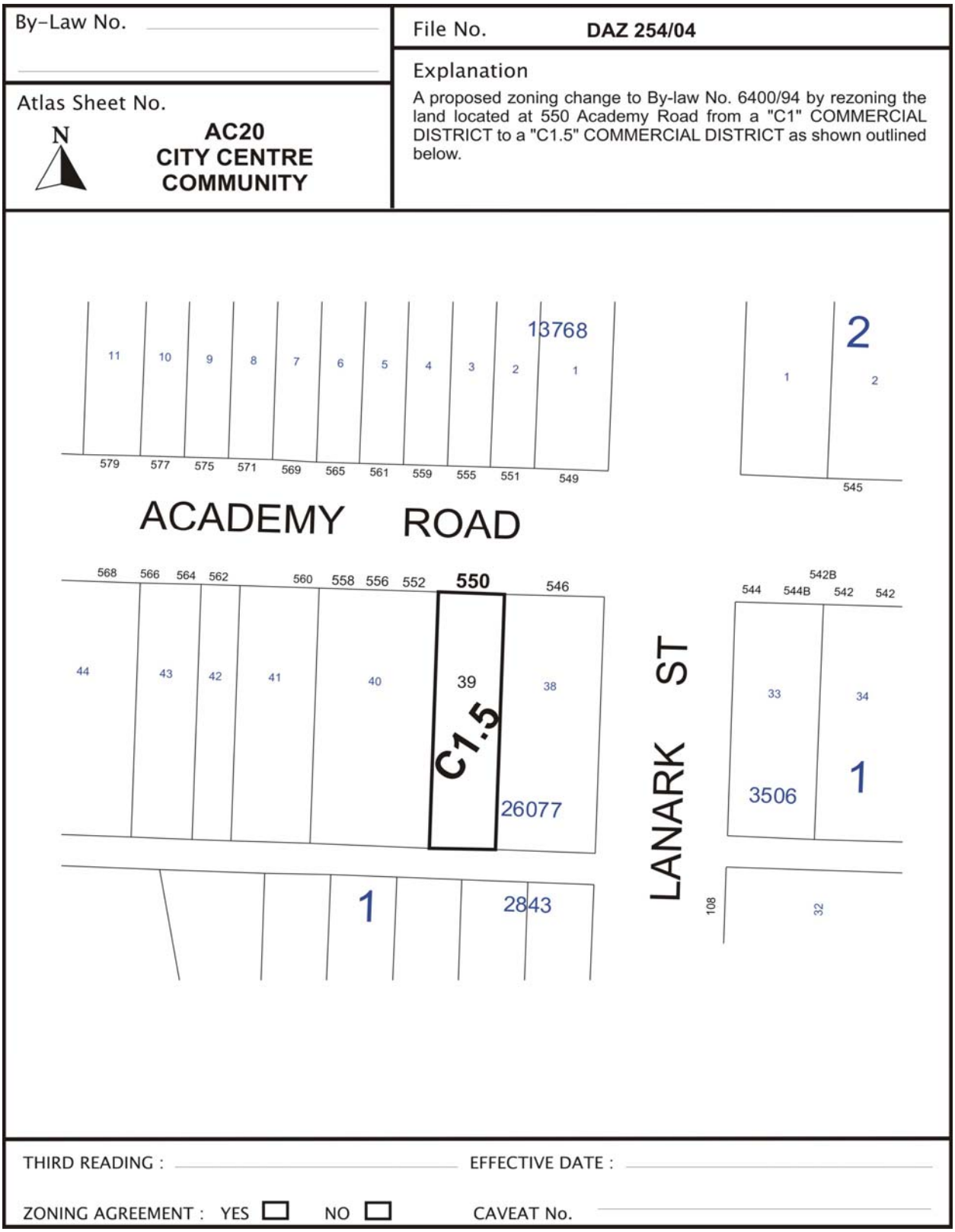


Figure 1: Schedule "A" to the report to the City Centre Community Committee for File No. DAZ 254/04, dated October 5, 2004.