Agenda - Council - December 15, 2004

Report - Standing Policy Committee on Property and Development - November 30, 2004

Item No. 7 Rezoning - 337 Ferry Road
File DAZ 257/2004

STANDING COMMITTEE RECOMMENDATION:

On December 8, 2004, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia 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 257/2004 dated November 3, 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 following uses be prohibited on the land:

            a. amusement parlour
            b. amusement enterprise, all listings
            c. audio-visual recordings: rental, sales
            d. banquet hall, dance hall
            e. cabaret
            f. contractors' establishment
            g. convenience store
            h. sign (third-party advertising)
            i. terminal for courier, delivery, taxi, and similar

        ii. That mobile and temporary signage be prohibited on the site.

        iii. That the site landscaping, fencing and paving be maintained in good appearance and condition and that the outside storage of materials, equipment, vehicle parts and unregistered or derelict vehicles be prohibited.

        iv. That vehicle parking areas be screened with fencing or hedges in accordance with the requirements under The Winnipeg Zoning By-law No. 6400/94.

Report - Standing Policy Committee on Property and Development - November 30, 2004

v. That the undertaking of vehicle repairs be restricted to the interior of the building.

vi. That exterior building or site lighting be screened (full cut-off).

vii. That prior to the issuance of a development permit, plans showing the site layout, access, parking, fencing, landscaping, garbage enclosures, building elevations, signage, site lighting be submitted for the approval of the Assiniboia Community Committee.

viii. That the height of the building on the land be restricted to one (1) storey.

2. That Zoning Agreement Caveat No. 1296405 be withdrawn.

3. 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.

4. 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.

5. 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.

6. 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.

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

8. 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 - November 30, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 8, 2004, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submitted the matter to Council

STANDING COMMITTEE RECOMMENDATION:

On November 30, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 9, 2004, the Assiniboia Community Committee concurred in the administrative recommendation with the following amendments, namely:

- That Recommendation No. 1.A.i. be deleted in its entirety and replaced with the following, namely:

  "1.A.i. That the following uses be prohibited on the land:"

- That a new Recommendation No. 1.A.vii. be added as follows:

  "1.A.vii. That the height of the building on the land be restricted to one (1) storey.",

and submitted the matter to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 337 Ferry Road**
File DAZ 257/2004 [c/r DAV 328058/2004D, DCU 328071/2004D]

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

Prepared by: **Josie Marques, Clerk,**
Assiniboia Community Committee

Report date: **November 12, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 9, 2004, the Assiniboia 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 257/04, dated November 3, 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 followings be prohibited on the lands:***~~

      i. That the following uses be prohibited on the lands:

         a. amusement parlour
         b. amusement enterprise, all listings
         c. audio-visual recordings: rental, sales
         d. banquet hall, dance hall
         e. cabaret
         f. contractors' establishment
         g. convenience store
         h. sign (third-party advertising)
         i. terminal for courier, delivery, taxi, and similar

      ii. That mobile and temporary signage be prohibited on the site.

      iii. That the site landscaping, fencing and paving be maintained in good appearance and condition and that the outside storage of materials, equipment, vehicle parts and unregistered or derelict vehicles be prohibited.

iv. That vehicle parking areas be screened with fencing or hedges in accordance with the requirements under Zoning By-law 6400/94.

v. That the undertaking of vehicle repairs be restricted to the interior of the building.

vi. That exterior building or site lighting be screened (full cut-off).

vii. That prior to the issuance of a development permit, plans showing the site layout, access, parking, fencing, landscaping, garbage enclosures, building elevations, signage, site lighting be submitted for the approval of the Assiniboia Community Committee.

viii. That the height of the building on the land be restricted to one (1) storey.

2. That Zoning Agreement Caveat No. 1296405 be withdrawn.

3. 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.

4. 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.

5. 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.

6. 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.

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

8. 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 Assiniboia Community Committee provided the following supporting reason(s) for its recommendation:

1. The Assiniboia Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated November 2, 2004.

PUBLIC HEARING SUMMARY

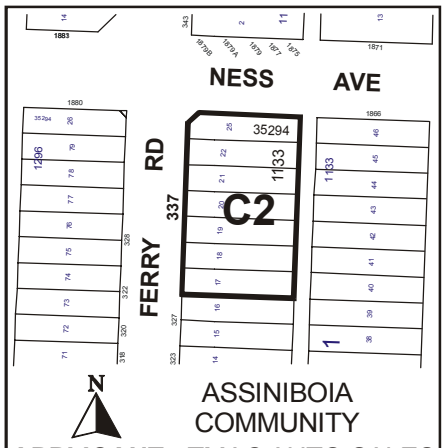
File: File DAZ 257/2004 [c/r DAV 328058/2004D, DCU 328071/2004D]

Before: Assiniboia Community Committee
Councillor De Smedt, Chairperson
Councillor Clement
Councillor Eadie

Public Hearing: November 9, 2004
Community Committee Chamber, 5006 Roblin Boulevard

Applicant: T-Mac Auto Sales (Ron Kusmack)

Subject:



APPLICANT : TMAC AUTO SALES
FILE : DAZ 257/04
PROPOSAL : To rezone the land shown outlined above from a "C1" COMMERCIAL DISTRICT to a "C2" COMMERCIAL DISTRICT, and to withdraw the existing Zoning Agreement affecting the subject lands. **For information, phone Mr. R. Mitchell, Planner at 986-5017.**

Premises Affected: 337 Ferry Road

Exhibits Filed:
1. Application dated September 22, 2004
2. Notification of Public Hearing dated September 28, 2004
3. Manitoba Status of Title(s) 1364586, 1364587, 1536304
4. Letter of authorization dated September 10, 2004 from Celia Patrician, Petro-Canada to T-Mac Auto Services

5. Extract of Atlas Sheet AA19
6. Drawing of subject property (2 pages)
7. Report from the Manager of Planning and Land Use dated November 2, 2004
8. Inspection Report

REPRESENTATIONS:

In Support:

Brian Boles

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

Brian Boles appeared in support of the application.

Exhibit "7" referred to in File DAZ 257/2004 [c/r DAV 328058/2004D, DCU 328071/2004D]

In reply please refer to / Référence à rappeler :

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

File No. DAZ 257/04 November 2, 2004
Our c/f CP 500 (.203)

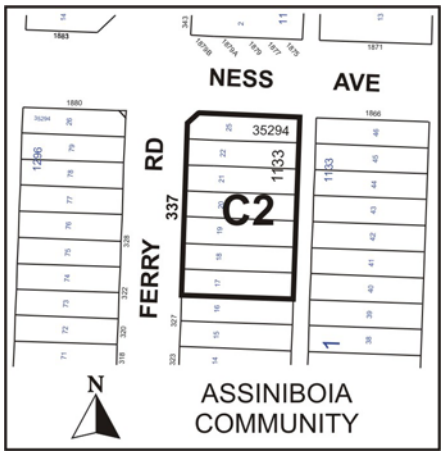
Ms. Josie Marques, Clerk
Assiniboia Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Marques:

REZONING
Location: 337 Ferry Road, southeast corner at Ness
Assiniboia Community Committee
File No. DAZ 257/04

An application has been received from T-Mac Auto Services (Ron Kusmack), to amend By-Law No. 6400/94 by rezoning the land shown below from a "C1" Commercial District to a "C2" Commercial District, and to withdraw the existing Zoning Agreement affecting the land.

RELATED FILES: DAV 04-328058D; DCU 04-328071D



SITE DESCRIPTION:

Site Area: Approximately 18,879 square feet.

Existing Land Use and Zoning: Vacant auto service station zoned "C1" Commercial District

Surrounding Land Use and Zoning:

North: Across Ness Avenue, commercial strip zoned "C1" Commercial District.
South: Single-family dwellings zoned "R1-5A" Single-Family Residential District.
East: Across public lane, restaurant zoned "C1" and single-family homes zoned "R1-5A".
West: Across Ferry Road, 7-11 convenience store zoned "C1" and single-family houses zoned "R1-5A".

DEVELOPMENT DESCRIPTION:

The property is owned by Petro Canada, who closed the gas station and service centre and left the building in a boarded condition. The southerly 50 feet of the property was rezoned from "R1-5" to "C1" under DAZ 239/89, which enabled the addition of a third service bay onto the garage. The rezoning was approved with a Zoning Agreement limiting the use of the property to an Automobile Service Station. The applicant wishes to reopen the service centre, which is a Conditional Use in "C2" zoning districts. The operation will not include the sale of gas.

Access: The site provides 2 right-in/right-out approaches onto Ferry Road. The site provides 2 similar approaches onto Ness Avenue, which has a concrete median to prevent left turns. Access to the site is also provided from the public lane.

Fencing and Landscaping: The one-storey building contains about 2,280 square feet of floor area with 3 service bays facing Ferry Road. Site landscaping and fencing consists of the following:

- a 20' by 50' planting bed with 3 large spruce trees at the southwest corner of the site adjacent to the house at 327 Ferry Road;
- a 3-foot wide grass strip (formerly shrub beds) running between the approaches to both Ferry Road and Ness Avenue;
- a shrub bed surrounding the base of the pylon sign at the corner of Ferry and Ness;
- a 5-foot wide grass strip along the south property line against 327 Ferry Road, inside the fence (intended as a shrub bed under the plan approved for DAZ 239/89);
- a wooden fence running south along the inside (east limit) of the landscaped yard, east along the property boundary with 327 Ferry, and north along the lane for a distance of about 40 feet. The fence is 4 feet in height adjacent to Ferry, and 6 feet high thereafter.

The fencing and landscaping is in need of repair/rehabilitation and ongoing maintenance. The site is also in an unsightly condition with dirt and rubble having been dumped at the rear of the

property. At the time of the site visit, a transport tractor and Dempster's bread truck were being parked on the property.

Related Files: The related Zoning Variance application would permit the automobile repair and service use to establish prior to Council approval of the subject rezoning application. It is recommended for approval. The related Conditional Use application is required because the automobile repair and service use is a Conditional Use in "C2" zoning districts. It is also recommended for approval.

PLAN WINNIPEG:

The application complies with Plan Winnipeg.

ADMINISTRATIVE COMMENTS:

The Planning and Land Use Division generally supports the re-establishment of the automobile repair and service use in the subject premises. The site has been used for this purpose for many years, and the use is compatible with the adjacent commercial development fronting Ness. The building itself is about 35 feet away from the house at 327 Ferry Road, providing a distance buffer to the residential use. The site landscaping and fencing is adequate as long as repairs are made and ongoing maintenance occurs. The applicant is advised that parking areas must be screened from the street, lane or adjacent properties with shrubs or fencing. Also, parking off the back lane behind the building is not allowed unless a zoning variance is granted enabling the lane to be used as a parking aisle. Finally, the Division is concerned about the appearance of the site, and does not want the outside storage of materials, equipment and unregistered or derelict vehicles to occur.

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 257/04, attached hereto and dated, November 3, 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:

      1. That the use of the land be limited to the followings be prohibited on the lands:

         - amusement parlour
         - amusement enterprise, all listings
         - audio-visual recordings: rental, sales
         - banquet hall, dance hall
         - cabaret

- contractors' establishment
- convenience store
- sign (third-party advertising)
- terminal for courier, delivery, taxi, and similar

2. That mobile and temporary signage be prohibited on the site.

3. That the site landscaping, fencing and paving be maintained in good appearance and condition and that the outside storage of materials, equipment, vehicle parts and unregistered or derelict vehicles be prohibited.

4. That vehicle parking areas be screened with fencing or hedges in accordance with the requirements under Zoning By-law 6400/94.

5. That the undertaking of vehicle repairs be restricted to the interior of the building.

6. That exterior building or site lighting be screened (full cut-off).

7. That, prior to the issuance of a development permit, plans showing the site layout, access, parking, fencing, landscaping, garbage enclosures, building elevations, signage, site lighting be submitted for the approval of the Assiniboia Community Committee.

II. That Zoning Agreement Caveat No. 1296405 be withdrawn.

III. 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.

IV. 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.

V. 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.

VI. 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.

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

VIII. 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
(Assiniboia and City Centre Communities)
986-5017



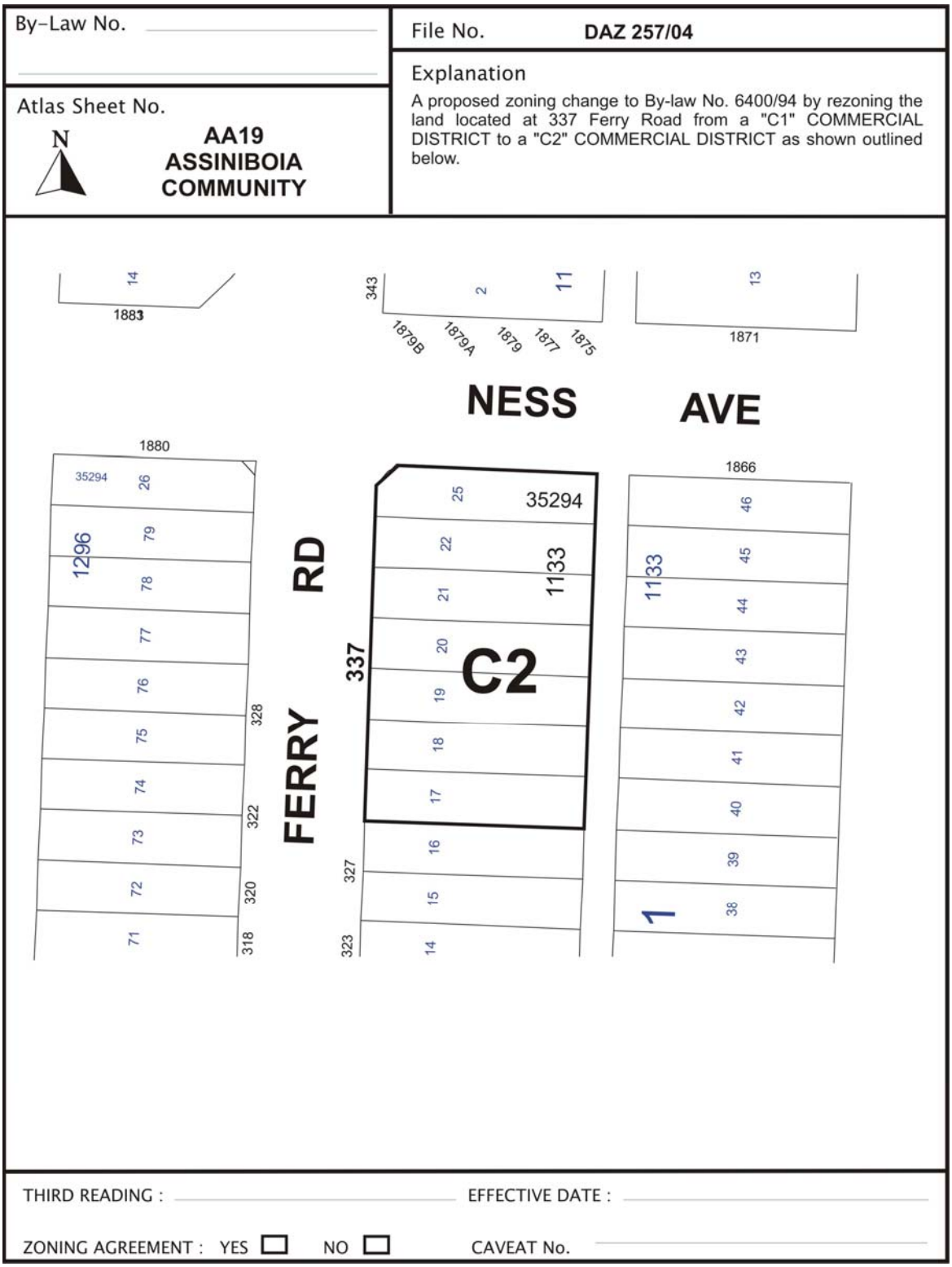


Figure 1: Schedule "A" to the report to the Assiniboia Community Committee for file No. DAZ 257/04, dated November 3, 2004.