Agenda - Council - January 26, 2005

Report - Standing Policy Committee on Property and Development - January 10, 2005

Item No. 7 Rezoning - 808 St. Mary's Road
File DAZ 268/2004

STANDING COMMITTEE RECOMMENDATION:

On January 19, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel 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 outlined on Schedule "A" for File DAZ 268/2004 dated December 7, 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 site be restricted to:

         a. a beauty salon/barbershop facility and accessory uses; and
         b. offices.

      ii. That the hours of operation be limited to 9:00 a.m. to 6:00 p.m. Tuesday to Saturday.

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 - January 10, 2005

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 - January 10, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 19, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee, as amended, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 10, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee with the following amendment, namely:

- That recommendation 1.A. iii be deleted in its entirety,

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

COMMUNITY COMMITTEE RECOMMENDATION:

On December 14, 2004, the Riel Community Committee concurred in the administrative recommendation with the following amendment, namely:

- By adding the following as Recommendation 1.A.iii.:

  1.A.iii. That the number of chairs in the beauty salon/barbershop be limited to a maximum of four (4),

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

RE: **Rezoning - 808 St. Mary's Road**
File DAZ 268/2004

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

Prepared by: **Marc Pittet, Clerk**
Riel Community Committee

Report date: **December 15, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On December 14, 2004, the Riel 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 6400/94 be amended by rezoning the subject land as outlined on Schedule "A" for File DAZ 268/2004 dated December 7, 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 site be restricted to:

            a. a beauty salon/barbershop facility and accessory uses; and

            b. offices.

        ii. That the hours of operation be limited to 9 a.m. to 6 p.m. Tuesday to Saturday.

        iii. That the number of chairs in the beauty salon/barbershop be limited to a maximum of four (4)

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 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 Riel Community Committee provided the following supporting reason for its recommendation:

1. The Riel Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated December 7, 200.

PUBLIC HEARING SUMMARY

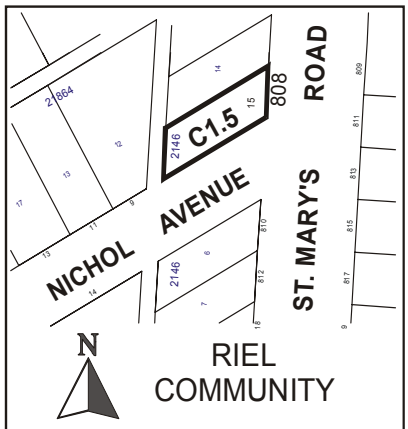
File: DAZ 268/2004

Before: Riel Community Committee
Councillor Steeves, Chairperson
Councillor Magnifico

Public Hearing: December 14, 2004
Community Committee Chamber, 604 St. Mary's Road

Applicant: Paul Leo Roy

Subject:



APPLICANT: MR. P. ROY
FILE: DAZ 268/04
PROPOSAL: To rezone the land shown outlined above from an "R2" TWO-FAMILY DISTRICT to a "C1.5" COMMERCIAL DISTRICT.
For information, phone Mr. K. Lalor, Planner at 986-5069.
DEMANDEUR : M. P. ROY
N° DE DOSSIER : DAZ 268/04
PROJET : Rezoner le bien-fonds indiqué ci-dessus en le faisant passer de la catégorie R2 (SECTEUR D'HABITATIONS BIFAMILIALES) à la catégorie C1.5 (SECTEUR COMMERCIAL).
Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.

Premises Affected: 808 St. Mary's Road

5100

Exhibit Filed:

1. Application dated November 16, 2004
2. Notification of Public Hearing dated November 18, 2004
3. Manitoba Status of Title 2045333
4. Surveyor's Building Location Certificate and sketch dated November 3, 2004 (2 pages)
5. Report from the Manager of Planning and Land Use dated December 7, 2004
6. Inspection Report

REPRESENTATIONS:

In Support:

Paul Roy

In Opposition

Lisa-Maj Roos

For Information:

Paul Jajam

For the City:

Kevin Lalor, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Paul Roy, appeared in support of the application and gave a brief overview of the proposal. Mr. Roy stated that the existing structure would be preserved with few modifications and the garage on the property would be removed to accommodate parking. Mr. Roy further stated that the proposed salon would be closed on Sundays and Mondays.

Lisa-Maj Roos appeared in opposition to the application. Ms. Roos provided the following reasons for her opposition:

- Parking in the area would be negatively impacted;
- Traffic would be increased in the area;
- Property values in the area would decrease;

- The proposed parking lot in the back yard would be an eyesore

Paul Jajam appeared for information with respect to the application. Mr. Jajam reiterated concerns regarding traffic and parking. Mr. Jajam stated he was concerned that the construction of the parking lot would result in the removal of trees and the existing garage in the rear yard of the subject property.

In rebuttal, Mr. Roy stated that the parking lot in the rear yard would accommodate up to six (6) vehicles so that the establishment of the business would not exacerbate parking in the area.

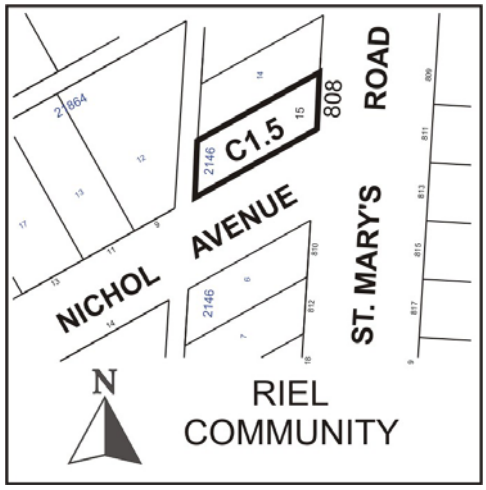
Exhibit “5” referred to in File DAZ 268/2004

Planning, Property and Development Department Report

To the Riel Community Committee

Date: December 7/04
File: DAZ 268 /04
Related Files: NA
Subject: To rezone the subject land from an “ R2” Residential District to a “ C1-5” Commercial District to allow for a beauty salon.

Location: 808 St. Mary’s Road
Legal Description: Lot 15, Block 2 Plan 2146 WLTO in RL 114 To 117 Parish of St. Boniface



Applicant: Paul Roy
Owner: Paul Roy

Recommendation: (Approved with Conditions)

Site Description

The parcel of land in question is located at the NW corner of Nichol Ave. and St. Mary's Road. It is approximately 6000 sq. ft. in overall area and is zoned R2 Two Family Residential. It is occupied with a single family dwelling and has rear parking access to a garage off the lane.

Background

The existing two story dwelling has been located on the property for many years and has never been utilized for commercial purposes. Nor has there ever been an application to rezone the property to a commercial category.

Description of the Proposed Development

The applicant proposes to retain and convert the existing dwelling into a beauty salon. The preliminary information that we have suggests that the business will be able to accommodate 3-4 clients/customers maximum at any one time. Hours of operation will be between the 9:00 am and 6:00 pm Tuesday to Saturday. Sundays and Mondays, the business will be closed. The applicant is also proposing to remove the existing garage and hard surface the rear yard area for 4-5 parking stalls.

Analysis

In the last ten years, there have been 10-12 applications of this type along St. Mary's Road (in existing dwellings). While a rezoning is often procedurally required in these circumstances, the existing building is usually retained and upgraded which is preferable to the construction of a new commercial structure which, more often than not, is completely devoid of character. And, as a rule, the new businesses being proposed, do not generate much traffic/ activity and operate in accordance with regular daytime business hours. In order to protect the interests of adjoining neighbours, in the long term, the City usually recommends that use of the land be restricted to the single use applied for in addition to any accessory uses. That way, should the ownership change, alternative use of the property could not occur without benefit of a new application (ZAA), new posting and new public hearing before the Riel Community Committee. Recommended conditions of approval are customarily listed in a zoning agreement in the last section of this report.

Recommendation

The Planning and Land Use Division recommend approval for the following reasons:

- The proposed use is a low intensity commercial use which is subject to restrictive hours of operation and will not generate much traffic onto the site.
- There is ample precedent for restrictive commercial development in existing dwellings along major thoroughfares such as St. Mary's Road.

- Use of the building and site will be restricted, by way of zoning agreement, to a beauty salon/ barber facility and accessory uses.

Recommended Conditions of Approval

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 268/04, attached hereto and dated December7, 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:

1. That the use of the site be restricted to a) a beauty salon/ barbershop facility and accessory uses and b) offices
2. That the hours of operation be limited to 9am to 6pm Tuesday to Saturday.

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 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.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division
Report Prepared by: Kevin Lalor PPD File # 5.512

By-Law No. _____

File No. **DAZ 268/04**

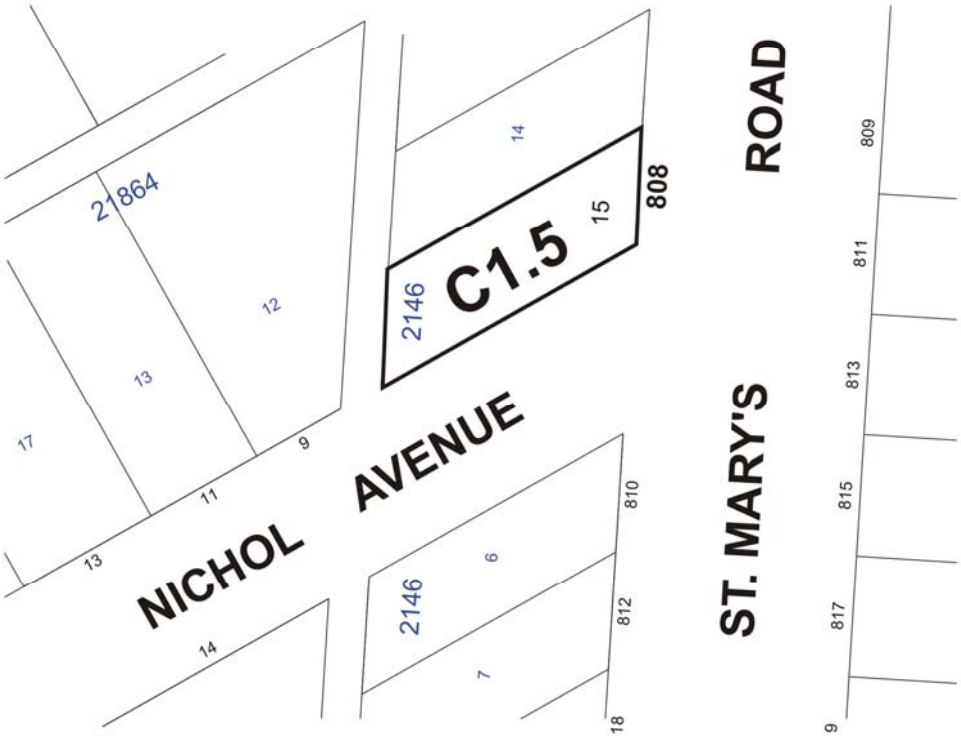
Atlas Sheet No.

N

AE26
RIEL
COMMUNITY

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 808 St. Mary's Road from an "R2" TWO-FAMILY DISTRICT to a "C1.5" COMMERCIAL DISTRICT as shown outlined below.



Schedule "A" for file No. DAZ 268/04, Riel Community Committee, dated Dec. 7/04

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____