Agenda - Council - April 27, 2005

Report - Standing Policy Committee on Property and Development - April 5, 2005

Item No. 6 Rezoning - 252 Arlington Street
File DAZ 207/2005

STANDING COMMITTEE RECOMMENDATION:

On April 20, 2005, the Executive Policy Committee concurred in the recommendations 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 207/2005 dated February 15, 2005, to a "C1" 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 this shall be a temporary rezoning to a "C1" Commercial District, said zoning to be in force and effect only so long as the Health / Nutritional Consulting Office Use remains. Once the subject use ceases to exist on this property the subject site shall revert back to its previous zoning designation "R2-TA" Transitional District.
        ii. That the hours of operation be limited to 9:00 a.m. to 9:00 p.m.
        iii. That there be no retail sales.
        iv. That there be no external signs except what is allowed under Home Occupation.
        v. That the class size be limited to a maximum of ten (10).

2. 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.

3. 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.

Report - Standing Policy Committee on Property and Development - April 5, 2005

4. 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.

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

6. 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 5, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2005, the Executive Policy Committee concurred in the recommendations 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 April 5, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 1, 2005, the City Centre Community Committee did not concur in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 252 Arlington Street**
File DAZ 207/2005]

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

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

Report date: **March 4, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On March 1, 2005, the City Centre Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development that the application for rezoning under File DAZ 207/2005 be approved subject to the following conditions:

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 207/05, dated February 15, 2005, to a "C1" 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 this shall be a temporary rezoning to a "C1" Commercial District, said zoning to be in force and effect only so long as the Health / Nutritional Consulting Office Use remains. Once the subject use ceases to exist on this property the subject site shall revert back to it's previous zoning designation "R2-TA" Transitional District;
        ii. That the hours of operation be limited to 9:00 am to 9:00 pm;
        iii. That there be no retail sales;
        iv. That there be no external signs except what is allowed under Home Occupation;
        v. That the class size be limited to a maximum of ten (10).

2. 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.

3. 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.

4. 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.

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

6. 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,

and forwarded to the Standing Policy Committee on Property and Development.

The City Centre Community Committee provided the following supporting reasons for its recommendation:

1. The City Centre Community Committee did not agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated February 15, 2005.

2. The development is appropriate for the area

PUBLIC HEARING SUMMARY

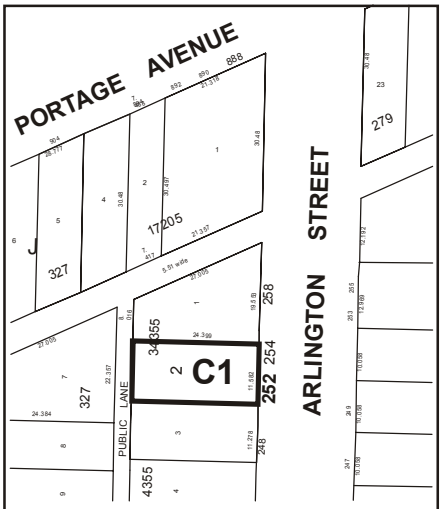
File: DAZ 207/2005

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

Public Hearing: March 1, 2005
West Committee Room
Council Building, 510 Main Street

Applicant: Mary Jane's Cooking School Inc.
(Mary Jane Eason and Laura L. Steiman)

Subject:



APPLICANT : MARY JANE'S COOKING SCHOOL INC.
FILE : DAZ 207/05
PROPOSAL : To rezone the land shown outlined above from an "R2-TA" TRANSITIONAL DISTRICT to a "C1" COMMERCIAL DISTRICT. **For information, phone Mr. J. Veitch, Planner at 986-7728.**

Premises Affected: 252 Arlington Street

Exhibits Filed:

1. Application dated January 31, 2005
2. Notification of Public Hearing dated February 3, 2005
3. Manitoba Status of Title 1661659
4. Surveyor's Building Location Certificate and sketch dated June 16, 1999
5. Drawing of subject property
6. Plan
7. Report from the Manager of Planning and Land Use dated February 15, 2005
8. Petition in support of the application, purporting to contain the signatures of 26 area residents, submitted by Laura L. Steiman.
9. Inspection Report

REPRESENTATIONS:

In Support:

Mary Jane Eason
Ralph Rampersad
Laura Steiman

In Opposition

Nil

For the City:

Mr. J. Veitch, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The Applicants, Laura Steiman and Mary Jane Eason appeared in support of the application. Ms Steiman gave a brief overview on the development. She stated that the location is ideal for the school's purpose, they have full support of neighbours, and submitted a petition in support of the development filed as Exhibit 8.

Mary Jane Eason stated that the environment was ideal for the types of classes being offered and that the building would not be physically changed in order to maintain the look of a home.

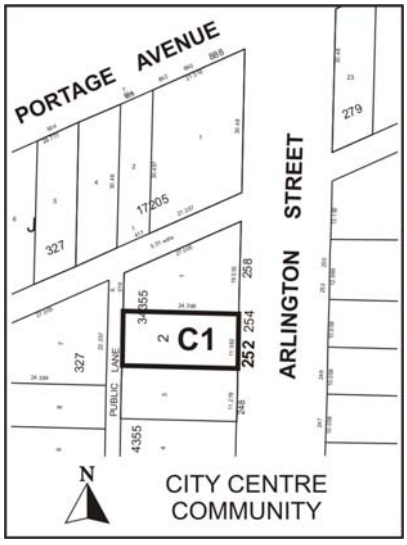
Exhibit "7" referred to in File DAZ 207/2005

Planning, Property and Development Department Report

To the City Centre Community Committee

Date: February 15, 2005
File: DAZ 207/05
Related Files: N/A
Subject: REZONING

Location: 252 Arlington Street
Legal Description: S.P. Lot 2, PL 34,355



Applicant: Mary Jane's Cooking School
Owner: Mary Jane Eason

Recommendation: The Planning and Land Use Division recommends **rejection**.

Site Description

Site Area

252 Arlington Street is a 38-foot by 80.1 foot, (3,043.8 square feet) residential lot located in the Wolseley Neighbourhood of the City Centre Ward.

Existing Land Use and Zoning

The subject site is zoned 'R2-TA' Residential and is occupied by a duplex. The cooking school currently operates on the main floor while the upper floor is residential.

Surrounding Land Use and Zoning

North: 'R2-TA' Residential (duplex)
South: 'R2-TA' Residential
East: Arlington Street then 'R2-TA' Residential
West: Back lane then 'R2-TA' Residential



Figure 1: Subject Site (Aerial Photography Flown 2002)

Background

DAV 605/99C - The applicants applied for a variance to allow for a change of use for a period not to exceed 5 years to permit the establishment of a nutritional / health consulting office in an existing single family dwelling as well as associated parking variances. The Division recommended denial, as typically we do not support the establishment of a commercial use in a residential area. However, the application was approved with conditions, the 5 year use agreement expired September 30, 2004.

The Division advised the applicants that this 5-year term was non-renewable and that they should use the time to find a more suitable commercial location for their business and that we would not support a re-zoning of the property to a commercial designation.

Description of the Proposed Development

The applicants are now requesting a re-zoning for the subject property from 'R2-TA' Residential to 'C1' Commercial to permit the maintenance of a nutritional/health consulting office and cooking school as their five year change of use has expired. Mary Jane's Cooking School Inc. is a nutritional/health consulting service that offers yearlong classes for up to 10 people. The applicants have indicated that there will be no alteration to the building or change to the property as part of this application.

Analysis

252 Arlington is a duplex located south of Portage Avenue and north of Preston Avenue in a 'R2-TA' Residential Zone. The site is located within the block bounded by residential properties on each side. 'Spot re-zonings' of this nature are contrary to established planning principles of consistent, orderly development and encourages commercial sprawl into the residential fabric, resulting in conflicts between uses.

This application is clearly not supportable under Plan Winnipeg 2020;

Policy 3A-01 ii) Promote Orderly Development states;

> 'considering the neighbourhood designation to signify areas of local identity with mutually supportive uses generally including a residential mix together with a variety of educational, recreational, institutional, commercial, and possibly industrial uses, **at a scale and density compatible with each other**;'

Policy 3B-01 ii) Promote Vibrant Neighbourhoods states;

> '**low-intensity ancillary uses** such as local commercial, educational, recreational, religious, and institutional **uses at a scale and density compatible** with, and necessary to support, low intensity residential development, and in **recognition of traffic flows related to these uses**;

Policy 3B-05 ii) Promote Commercial Densification states;

'approving new locations for commercial development only where significant residential areas are not well served with commercial space*, where existing commercial uses cannot accommodate expansion, where long-term negative impacts on existing regional and commercial centres will be minimal, where additions to the regional street system can be demonstrated to have long-term benefits, and where a full range of municipal infrastructure can be provided in an environmentally-sound, economical, and timely manner;'*

The Wolseley area is well served by the existing commercial corridor along Portage Avenue; a health / nutritional consulting business and cooking school with up to 10 students per class should be located in a commercial zone with sufficient parking, circulation and facilities to adequately accommodate a business of this scale and intensity.

Recommendation

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

- Not consistent with Plan Winnipeg 2020
- The scale and intensity of the use is not compatible with the context
- Spot re-zonings are contrary to Division policy and established good planning principles
- Encourages commercial sprawl into residential fabric and sets a negative precedent for future re-zonings

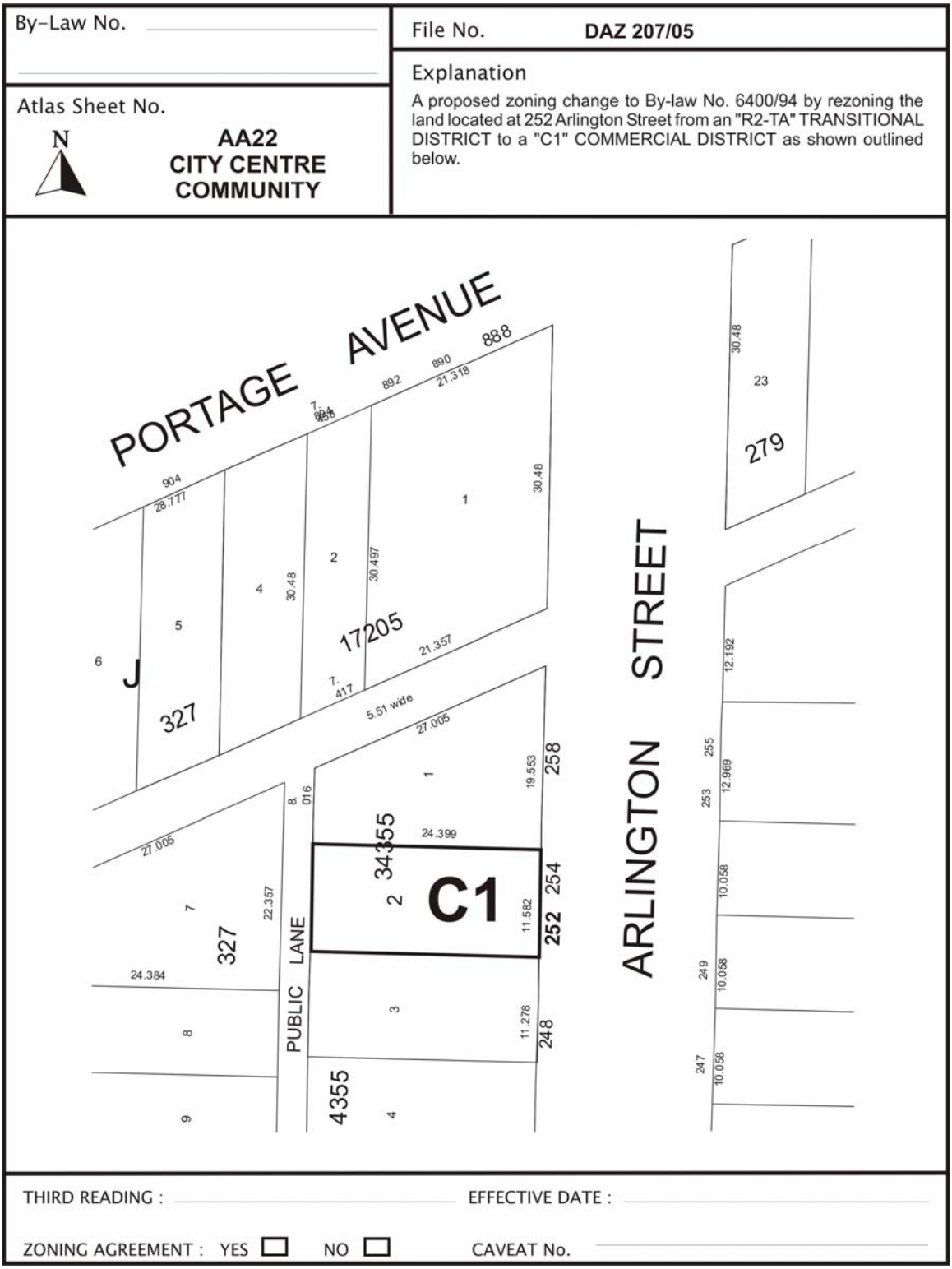
The Planning and Land Use Division recommend that the rezoning application file no. DAZ 207/05 **not** be proceeded with.

This Report Submitted by:

Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: James Veitch, Planner - City Centre
PPD File # DAZ 207/05

Schedule "A"



Schedule "A" to the report to the City Centre Community Committee for file Number DAZ 207/05 dated February 15, 2005.