Minute No. 527
Report - Standing Policy Committee on Property and Development - June 7, 2005

Item No. 15 Zoning Agreement Amendment - 333 and 337 Warde Avenue
File ZAA 4/2005 [c/r DAZ 245/83]

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That Zoning Agreement Caveat No. 1087162 under File DAZ 245/83 dated July 29, 1987, (By-law No. 5002/88) be amended for the subject property as follows:

   A. That Clause 3 relating to building height be replaced to read:

      "No building shall be constructed on the land exceeding three (3) storeys in height."

   B. That Clause 4 relating to building height in the northeast corner of the land be deleted from the zoning agreement.

   C. That Clause 5 relating to maximum number of buildings constructed on the subject property be deleted from the zoning agreement.

   D. That Clause 11 relating to building setbacks be replaced to read:

      "The Owner shall provide a separation space of not less than ten (10) feet between the east property line of the land and any building constructed on the land, it being understood and agreed that said separation space may be used for parking and a drive aisle."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 245/83 (By-law No. 5002/88) dated July 29, 1987, as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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 - June 7, 2005

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 22, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 7, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On May 17, 2005, the Riel Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment - 333 and 337 Warde Avenue**
File ZAA 4/2005 [c/r DAV 116999/2005D, DCU 117006/2005D]

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

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

Report date: **May 25, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 17, 2005, the Riel Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement Caveat No. 1087162 under File DAZ 245/83 dated July 29, 1987 (By-law No. 5002/88), be amended for the subject property as follows:

   A. That Clause 3, relating to building height, be replaced to read:

      "No building shall be constructed on the land exceeding three (3) storeys in height."

   B. That Clause 4, relating to building height in the northeast corner of the land, be deleted from the zoning agreement.

   C. That Clause 5, relating to maximum number of buildings constructed on the subject property, be deleted from the zoning agreement.

   D. That Clause 11, relating to building setbacks, be replaced to read:

      "The Owner shall provide a separation space of not less than ten (10) feet between the east property line of the land and any building constructed on the land, it being understood and agreed that said separation space may be used for parking and a drive aisle."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 245/83 (By-law No. 5002/88), dated July 29, 1987 as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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 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 May 5, 2005.

PUBLIC HEARING SUMMARY

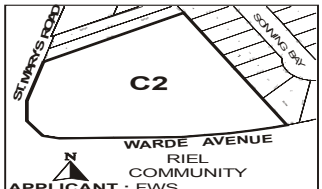
File: File ZAA 4/2005 [c/r DAV 116999/2005D, DCU 117006/2005D]

Before: Riel Community Committee
Councillor Magnifico, Chairperson
Councillor Steeves
Councillor Swandel

Public Hearing: May 17, 2005
Community Committee Chamber, 219 Provencher Boulevard

Applicant: FWS Construction Ltd. (Mike Patel)

Subject:



APPLICANT : FWS CONSTRUCTION LTD.
FILE : ZAA 4/05
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above by deleting the following conditions: Clause 3 that states "Except as provided in clause 4 hereof, no building shall be constructed on the land exceeding one (1) storey in height". Clause 4 that states "A two-storey building may be constructed on the north-east corner of the land provided that the second storey therein shall not be occupied for any use except offices, business or professional". Clause 5 that states "Not more than two buildings may be constructed on the south-west corner of the land". Clause 11 that states "The owner shall provide a separation space of not less than forty (40) feet between the east property line of the land and any building constructed on the land, it being understood and agreed that said separation space may be used for parking and a driving aisle".**For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR: FWS CONSTRUCTION LTD.
N° DE RÉFÉRENCE : MCZ 4/05
PROJET : Projet de modification de la convention de zonage touchant le bien-fonds indiqué ci-dessus et visant à abroger les dispositions suivantes : L'alinéa 3 qui interdit d'ériger sur le bien-fonds un bâtiment excédant la hauteur d'un étage, sauf en conformité avec l'alinéa 4 des présentes. L'alinéa 4 qui permet de construire un bâtiment ayant un étage à l'angle nord-est du bien-fonds pour autant que l'étage en question soit occupé uniquement par des bureaux, des commerces ou des cabinets de professionnels. L'alinéa 5 qui interdit de construire plus de deux bâtiments à l'angle sud-ouest du bien-fonds. L'alinéa 11 qui impose que le propriétaire prévoie un espace séparatif d'au moins quarante pieds entre la ligne est de la propriété et tout bâtiment érigé sur le bien-fonds, ledit espace pouvant bien entendu être utilisé comme stationnement ou allée. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 333 and 337 Warde Avenue

Exhibits Filed:

1. Application dated April 12, 2005
2. Notification of Public Hearing dated April 18, 2005
3. Manitoba Status of Titles 1069372, 1069376, 1069378, 1137798
4. Caveat No. 1087162 dated November 3, 1988

5a. Letter of authorization dated March 17, 2005 from Imperial Oil Limited to Sunstone Resort Communities Corporation

5b. Letter of authorization dated May 10, 2005 from Sunstone Resort Communities Corporation to FWS Construction Ltd.

6. Zoning Agreement dated July 29, 1987
7. Drawing of subject property
8. Plans (3 pages)
9. Report from the Manager of Planning and Land Use dated May 5, 2005
10. Inspection Report

REPRESENTATIONS:

In Support:
Mike Patel

In Opposition:
Nil

For the City:
Kevin Lalor, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING

The applicant, Mike Patel, appeared in support of the application and gave a brief overview of the proposal. Mr. Patel reaffirmed the commitment made at a public meeting to work with area residents to ensure the incorporation of a level of screening that is appropriate for the proposed development.

Exhibit "9" referred to in File ZAA 4/2005 [c/r DAV 116999/2005D, DCU 117006/2005D]

Winnipeg

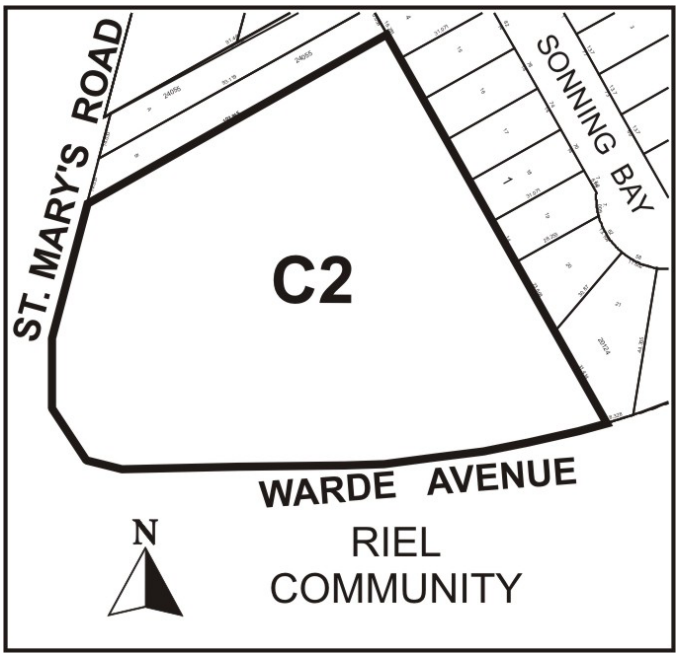
Planning, Property and Development Department Report

To the RIEL Community Committee

Date: **May 5, 2005**
File: **ZAA 4/05**
Related Files: **DCU 05-117006D, DAV 05-116999D**
Subject: **To amend Zoning Agreement Caveat No. 1087162 to permit the development of a 103-unit apartment building and parking structure.**

Location: **333 & 337 Warde Avenue**

Legal Description: LOT 38 PLAN 19857 129/136 ST N LOT 36 BLOCK 1 PLAN 20124 131/133 ST N LOT 1 PLAN 23042 132 ST N



Applicant: **Mike Patel (FWS Construction Ltd.)**
Owner: **Imperial Oil Ltd.**
Recommendation: That the Zoning Agreement Amendment be approved.

Site Description

The subject property is zoned "C2" Commercial District, is approximately 3.48 acres (14,070m^2) in area, and is currently vacant undeveloped land.

Surrounding Land Uses
North: a church zoned "C2" Commercial District.
South: Warde Ave, then commercial uses, zoned "C2" Commercial District.
East: Single family Residential, zoned "R1-3.5" Residential District.
West: St. Mary's St, then commercial uses, zoned "C2" Commercial District.

Background

The original rezoning application (DAZ 245/83) was to rezone the subject property from an "A1" Agricultural and "C1" Commercial District to a "C2" Commercial District, in order to facilitate the development of a multi-tenant commercial building. At the time of the original rezoning application, in 1983, some concern was expressed to the potential site design and form that the commercial development could take. In order to mitigate potential conflicts between adjacent land uses, a zoning agreement was registered on title as a caveat to the property, which addressed building heights, number of buildings permitted, uses, setbacks, fencing, landscaping, lighting and signage.

Development Control
Construction or alterations to the site are not permitted without prior plan approval from the Riel Community Committee.

Description of the Proposed Development

Proposed Changes
The proposed development is located on the northeast corner of the St. Mary's Rd / Warde Ave intersection and will consist of a three-storey 103-unit multiple family dwelling (apartment), and a one-storey accessory parking structure.

Analysis

Plan Winnipeg Compliance
The subject property is designated Neighbourhood Policy Area under *Plan Winnipeg 2020 Vision*. The Neighbourhood Policy Area allows for a variety of uses including: residential, commercial, institutional and mixed uses. Therefore the proposed development, to include an apartment building and parking structure, conforms to *Plan Winnipeg 2020 Vision*.

Public Input
In order to receive some input on the proposed development, from the surrounding residents, the applicant (FWS Construction Ltd.) hosted an open house on April 26, 2005 at the Dakota Community Club. Approximately fifteen (15) residents attended the open house, and voiced minor concerns related to screening and fencing along the east property line. The applicant expressed that he is agreeable to working with the neighbors to provide a level of screening that is appropriate for the proposed development.

Site Design and Compatibility With Existing Neighborhood
The applicant has proposed a site design that should minimize the visual impact of the development by providing a gradual increase in elevation. This is accomplished by locating the one-storey parking structure parallel to the common property line shared with the adjacent existing single-family residential houses, and moving the three-storey apartment towards the St. Mary's Rd / Warde Ave intersection. In addition the applicant proposes to soften the development by providing intensive landscaping parallel to the road right-of-way, within the parking area, and along the common property line shared with the adjacent existing single-family residents.

Recommendation

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

- The proposed development is consistent with *Plan Winnipeg 2020 Vision*.
- The proposed development is compatible with the surrounding uses, and is appropriate for the subject property.
- The site design of the apartment complex should minimize the visual impact on adjacent properties.

Recommended Conditions of Approval

I. That the Zoning Agreement Caveat No. 1087162 under file no. DAZ 245/83 dated, July 29, 1987 (By-Law # 5002/88), be amended for the subject property as follows:

a) That clause 3, relating to building height, be replaced to read:

No building shall be constructed on the land exceeding three (3) storeys in height.

b) That clause 4, relating to building height in the northeast corner of the land, be deleted from the zoning agreement.

c) That clause 5, relating to maximum number of buildings constructed on the subject property, be deleted from the zoning agreement.

d) That clause 11, relating to building setbacks, be replaced to read:

The Owner shall provide a separation space of not less than ten (10) feet between the east property line of the land and any building constructed on the land, it being understood and agreed that said separation space may be used for parking and a drive aisle.

II. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 245/83 (By-Law # 5002/88), dated, July 29, 1987as approved in aforesaid Clause I.

III. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

IV. 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: Derek Eno, Planner
PPD File # ZAA 4/05



Figure 1: Air photo

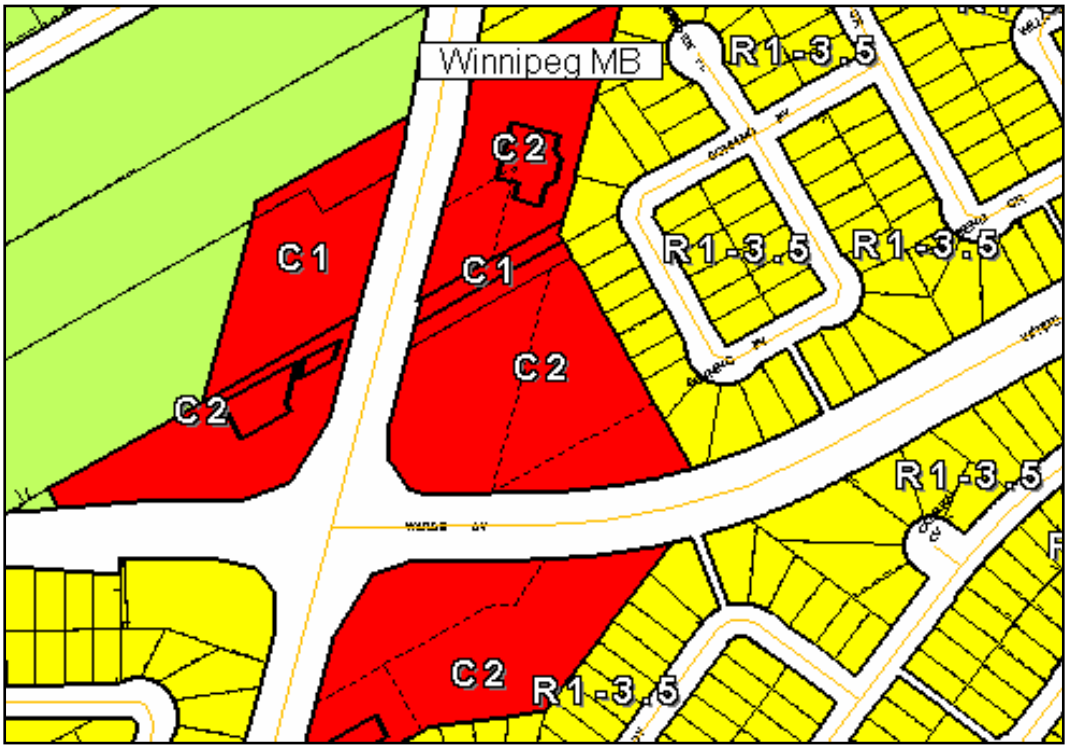


Figure 1: Zoning Map