Minute No. 751
Report - Standing Policy Committee on Property and Development - October 4, 2005

Item No. 22 Zoning Agreement Amendment - 420 John Forsyth Road
File ZAA 12/2005 [c/r DASZ 8/95]

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. 2144337 under File DASZ 8/94 dated November 29, 1995, (By-law No. 6724/95) be amended by deleting Clause 4 which requires that owners provide and maintain on the land a landscaped setback of not less than twenty-five (25) feet as measured from the east limit of the land to any building or structure or any parking, loading or refuse storage facility.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 8/94 (By-law No. 6724/95 dated November 25, 1995, as approved in 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 - October 4, 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 October 19, 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 October 4, 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 September 13, 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 - 420 John Forsyth Road**
File ZAA 12/2005 [c/r DAV 141250/2005D]

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

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

Report date: **September 16, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 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. 2144337 under File DASZ 8/94, dated November 29, 1995 (By-law No. 6724/95), be amended by deleting Clause 4 which requires that owners provide and maintain on the land a landscaped setback of not less than twenty-five (25) feet as measured from the east limit of the land to any building or structure or any parking, loading or refuse storage facility.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 8/94 (By-law No. 6724/95), dated November 25, 1995, as approved in 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 September 6, 2005.

PUBLIC HEARING SUMMARY

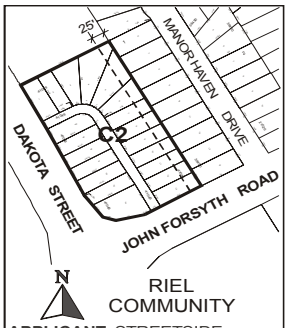
File: ZAA 12/2005 [c/r DAV 141250/2005D]

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

Public Hearing: September 13, 2005
Community Committee Chamber, 219 Provencher Boulevard

Applicant: Streetside Development Corporation (David Hill or Darlene)

Subject:



APPLICANT: STREETSIDE DEVELOPMENT CORPORATION
FILE: ZAA 12/05
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above by deleting the requirement that the owner shall provide and maintain on the land a landscaped setback to any building or structure or any parking, loading or refuse storage facility on the land, which setback shall be not less than twenty-five (25) feet in depth as measured from the east limit of the land. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : STREETSIDE DEVELOPMENT CORPORATION
N° DE RÉFÉRENCE : MCZ 12/05
PROJET : Demande de modification de la convention de zonage touchant le bien-fonds indiqué ci-dessus et visant à supprimer l'obligation pour le propriétaire de fournir et d'entretenir sur le bien-fonds une marge de reculement aménagée pour tout bâtiment, structure, parc de stationnement, installation de chargement ou d'entreposage de déchets, laquelle marge de reculement doit avoir une profondeur d'au moins vingt-cinq (25) pieds mesurée à partir de la limite est du bien-fonds. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 420 John Forsyth Road

Exhibits Filed:

1. Application dated July 29, 2005
2. Notification of Public Hearing dated August 9, 2005
3. Manitoba Status of Titles 1942511, 1939549, 1987310, 1980126, 1982002, 1953636, 1996064, 1958533, 1979532, 2014699

4a. Letter of authorization dated January 7, 2005 from Gary and Brenda Colyer to The City of Winnipeg

b. Letter of authorization dated January 5, 2005 from Gordon and Margaret Newton to The City of Winnipeg

c. Letter of authorization dated January 3, 2005 from Jean Gilson to The City of Winnipeg

d. Letter of authorization dated January 7, 2005 from Adina Doerksen to The City of Winnipeg

e. Letter of authorization dated January 5, 2005 from Timothy and Carol Cowan to The City of Winnipeg

f. Letter of authorization dated January 13, 2005 from Donald and June Beattie to The City of Winnipeg

g. Letter of authorization dated January 4, 2005 from Jim and Audrey Montgomery to The City of Winnipeg

h. Letter of authorization dated January 7, 2005 from Isabel Batten to The City of Winnipeg

i. Letter of authorization dated January 2, 2005 from Ronaldo and Ghislaine Guimond to The City of Winnipeg

j. Letter of authorization dated January 24, 2005 from Ivica and Ruzica Blaskovic to The City of Winnipeg

5. Zoning Caveat No. 2144337
6. Variance Orders DAV 238/2002C, DAV 379/2002C
7. Conditional Use Order DCU 80/2002C
8. Plans (2 pages)
9. Report from the Manager of Planning and Land Use dated September 12, 2005
10. Inspection Report

REPRESENTATIONS:

In Support:

Nil

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

No verbal representation was made at the public hearing.

Exhibit "10" referred to in File ZAA 12/2005 [c/r DAV 141250/2005D]

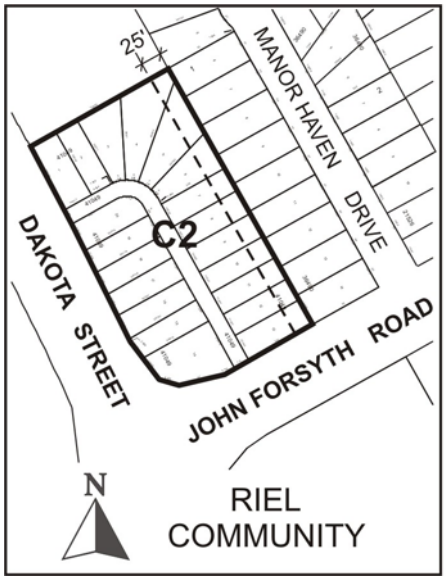
Winnipeg

Planning, Property and Development Department Report

To the Riel Community Committee

Date: September 6/ 2005
File: ZAA 12 /05
Related Files: DAV 05- 141250D
Subject: To delete Clause 4 of the existing zoning agreement DASZ 8/94 (B/L 6724/95) affecting units 4-13 which requires a 25 ft. landscaped setback from the east limit of the land to any structure , parking , loading or refuse storage facility.

Location: 420 John Forsyth Rd.
Legal Description: Lot 1, Blk.1, Plan 34630 (Units 1-20, Condo Plan 41049, Wpg. Condo Corp. 443)



Applicant: Streetside Development Corporation
Owner: Private owners of units 4-13

Recommendation: Approved with Conditions

Site Description

The property in question is situated at the N.E. corner of John Forsyth Rd. and Dakota St. It has over 400 ft. of frontage along Dakota St. and an overall area of approximately 2.4 acres. It is zoned C2 Commercial but has been developed as a low density residential condo project (total 20 units). To the immediate north is a fire-hall and multiple family housing zoned RM-2. To the east is a single- family residential neighbourhood zoned R1-4. To the south is a school (fully operational) zoned RM-2 and to the west is a low density condo housing project zoned RM-L.

Background

When the area was subdivided and rezoned fifteen years ago , the subject property was set aside as a small future commercial site. A much larger commercial site was similarly delineated on the west side of Dakota St. In recent years much of the commercial area to the west has been converted into housing and the subject site has also been developed to the maximum allowable residential density permitted under the existing C2 zoning. Thirty condo units have been constructed on the N.W. corner of John Forsyth and there have been an additional twenty condo units constructed on the subject property. Because the subject site was originally rezoned to a commercial category, a restrictive clause was inserted into the agreement which required that there be a 25' east side yard established and maintained between property line and new structures. That of course was a valid requirement (when commercial development was envisaged) in order to safeguard the interests of the adjoining neighbourhood to the east. However with a conversion to residential development, a strict adherence to the current setback requirement, would not permit decks and sunrooms, many of which have already been constructed and are now in contravention. Deleting the subject clause will legitimize existing reduced yards and permit decks and sunrooms for the remaining several units that currently don't have them.

Description of the Proposed Development

A deletion of the subject clause will allow for the maintenance of 1) a 19.05 ft. rear yard for unit 9, 2) a 20.75 rear yard for unit 10, 3) a 21 ft. rear yard for units 6,7, and 12 , 4) a 21.05 rear yard for unit 13, 5) a 21.2 rear yard for unit 11, 6) and a 24.8 ft. rear yard for unit 5.

Analysis

It is the view of the Planning and Land Use Division that the highest and best use for the subject site is , first of all, infill housing of a reasonable density. That has been accomplished and is in complete accordance with Plan Winnipeg Policy. However the old restrictive clause regarding east yard setbacks is no longer deemed necessary given that commercial development is going to occur. Enclosed decks and sunrooms of reasonable size are regarded as appropriate additions in condo developments of this type; this Division therefore endorses the proposed amendment.

Recommendation

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

- The existing sunroom and deck additions are deemed to be of acceptable size and scale and will not adversely affect adjoining properties to the east.
- The current set back requirements in the existing agreement were not intended to apply to residential housing but were intended to buffer anticipated commercial development from adjoining residential properties.

Recommended Conditions of Approval

I. That the Zoning Agreement Caveat No. 2144337 under file no. DASZ 8/94, dated, November 29/ 95 (By-Law # 6724/95), be amended *by deleting Clause4 which requires that owners provide and maintain on the land a landscaped setback of not less than 25' as measured from the east limit of the land to any building or structure or any parking, loading or refuse storage facility.*

II. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 8/94 (By-Law # 6724/95), dated, November 25/95 as 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: (Kevin Lalor)
PPD File # (.530)