Minute No. 312
Report - Standing Policy Committee on Property and Development - January 31, 2006

Item No. 4 Zoning Agreement Amendment - 1255, 1265 and 1275 Leila Avenue File ZAA 17/2005 [c/r DASZ 8/97]

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.2820660 under File DASZ 8/97 dated July 24, 1997, (By-law No. 6/2003) be amended as follows:

   A. Delete clause 8 related to density
   B. Delete clause 9 related to height.

2. That Zoning Agreement Caveat No. 3228411 under File DASZ 9/2004 dated June 23, 2004, (By-law No. 94/2005) be amended as follows:

   A. Delete clause 7 related to height.

3. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 8/97 (By-law No. 6/2003) dated July 24, 1997, and DASZ 9/2004 (By-law No. 94/2005) dated June 23, 2004, as approved in aforesaid Recommendations 1 and 2.

4. That the Proper Officers of the City are hereby authorized to execute said Amending Agreements

5. 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 31, 2006

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 February 15, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 31, 2006, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 17, 2006, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment - 1255, 1265 and 1275 Leila Avenue File ZAA 17/2005 [c/r DAV 167780/2005D]**

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

Prepared by: **Diane Timmins, Clerk, Lord Selkirk-West Kildonan Community Committee**

Report date: **January 19, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On January 17, 2006, the Lord Selkirk-West Kildonan 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.2820660 under File DASZ 8/97 dated July 24, 1997 (By-Law No. 6/2003), be amended as follows:

   C. Delete clause 8 related to density
   D. Delete clause 9 related to height.

2. That the Zoning Agreement Caveat No. 3228411 under File DASZ 9/2004 dated June 23, 2004 (By-Law No. 94/2005), be amended as follows:

   A. Delete clause 7 related to height.

3. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 8/97 (By-Law No. 6/2003) dated July 24, 1997 and DASZ 9/2004 (By-Law No. 94/2005) dated June 23, 2004 as approved in aforesaid Recommendations 1 and 2.

4. That the Proper Officers of the City are hereby authorized to execute said Amending Agreements

5. 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 Lord Selkirk-West Kildonan Community Committee provided the following supporting reason for its recommendation:

1. The Lord Selkirk-West Kildonan Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated January 4, 2006.

PUBLIC HEARING SUMMARY

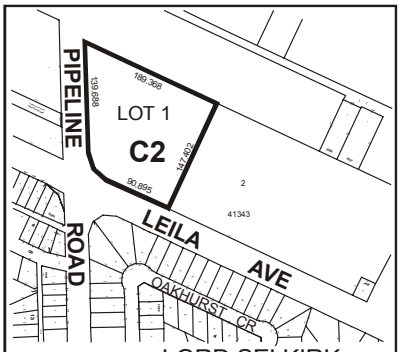
File: ZAA 17/2005 [c/r DAV 167780/2005D]

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Lazarenko, Chairperson
Councillor O'Shaughnessy
Councillor Pagtakhan

Public Hearing: January 17, 2006
West Committee Room
Council Building, 510 Main Street

Applicant: Nejmark Architect Inc. (Tat-Liang Cheam)

Subject:



APPLICANT : NEJMARK ARCHITECT
FILE : ZAA 17/05
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above by deleting the following clauses: (A) the clause which states that "no more than four hundred and ten (410) dwelling units shall be permitted on the "RM-3" MULTIPLE-FAMILY DISTRICT land and (B) the clause which states that "the height of any building or structure erected or located on the "RM-3" land shall not exceed forty (40) feet or three (3) storeys in height. **For information, phone Mr. M. Robinson, Planner at 986-3213.**

Premises Affected: 1255, 1265 and 1275 Leila Avenue

Exhibits Filed:

1. Application dated November 30, 2005
2. Notification of Public Hearing dated December 13, 2005
3. Manitoba Status of Titles 1930372 and 1930373
4. Letter of authorization dated May 18, 2005 from ASK Enterprises Inc. to Nejmark Architect Inc.
5. Zoning Agreement dated July 24, 1997
6. Zoning Agreement dated June 23, 2004
7. Caveat No. 2820662
8. Conditional Use Order DCU 132083/2005C
9. Plans (4 pages)
10. Report from the Manager of Planning and Land Use dated January 4, 2006
11. Inspection Report

REPRESENTATIONS:

In Support:

Tat-Liang Cheam, Nejmark Architect Inc.

In Opposition

Nil

For the City:

Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Tat-Liang Cheam, Nejmark Architect Inc., appeared in support of the application and indicated concurrence in the recommendations outlined in the report of the Manager of Planning and Land Use dated January 4, 2006.

Exhibit "10" referred to in File ZAA 17/2005 [c/r DAV 167780/2005D]

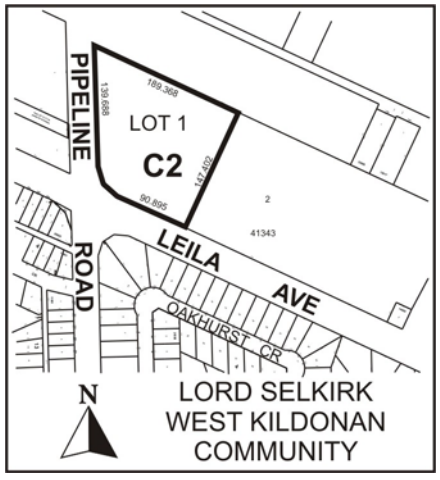
Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: **January 4, 2006**
File: **ZAA 17/05**
Related Files: **DAV 05-167780/D, DCU 05-132083/C,**
Subject: **Application to discharge Clause 8 & 9 from By-law 6/2003 (DASZ 8/97) and Clause 7 from By-law 94/2005 (DAZ)**

Location: **The northeast corner of Leila and Pipeline Roads**



Applicant: **Nejmark Architects (Tat-Liang Cheam)**
Owner: **Ask Enterprises, Inc.**

Recommendation: **Approval**

Report Summary:

- Application to discharge several clauses from past zoning agreements on the subject property
- The subject clauses deal with both height and density restrictions on the property
- The Planning and Land Use Division recommends that these clauses be discharged

Site Description

The subject property, which is zoned "C2" Commercial, is located at the northeast corner of Leila and Pipeline Roads in the Leila North neighbourhood of the Old Kildonan Ward. The property measures 5.47 acres (238,273 sq ft) in area.

Background

DASZ 8/97
In 1997, an application to subdivide and rezone the subject property for commercial and multiple-family residential development was approved by Council. However, as a condition of this approval, there were a number of restrictions placed on the development of the land.

1) The multiple-family development was restricted to no more than 410 dwelling units
2) The height of the buildings was restricted to 40 feet.
3) All new development requires that plans detailing landscaping, signage, building orientation and design, etc be submitted to and approved by the LSWK Community Committee prior to the issuance of any development permits.

Subsequent to this, the majority of the land was developed with three-story apartment buildings (351 units) west of Pipeline, along Leila Avenue. However, land at the corner of Leila and Pipeline was not included in that project and remained undeveloped.

DASZ 9/04
Until May of 2004, the still undeveloped property at the corner of Leila and Pipeline consisted of two separate property titles; one zoned "C2" Commercial District and the other zoned "RM-3" Multiple-Family Residential District. In May 2004, Council approved an application to consolidate the two properties and to rezone the entire site to a "C2" Commercial District in order to facilitate the development of a shopping center. The shopping center was never built.

A condition restricting the height of buildings to 40 feet was sustained from the previous approval.

Conditional Use (DCU 05-132083/C)
In June of 2005, a conditional use was approved by the Board of Adjustment to allow for the development of a 192 unit multiple-family dwelling. Subsequent to this, final plans were approved by the LSWK Community Committee.

Description of the Proposed Development
The applicant is proposing to modify the previously approved plans for a 192 unit multiple-family development by adding one additional story to the Phase 3 building. This would increase the height of the building from 40 feet to 50 feet.

In order to increase the building height, the applicant is proposing amendments to the zoning agreements for DASZ 8/97 and DASZ 9/04 to remove the following clauses:

DASZ 8/97

Clause 8
"No more than 410 dwelling units shall be permitted on the RM-3 Residential District land"

Clause 9
"The height of any building or structure erected or located on the RM-3 land shall not exceed 40 feet or three (3) storeys in height."

DASZ 9/04

Clause 7
"The height of any building or structure erected or located on the "RM-3" land shall not exceed 40 feet or three (3) storeys in height."

Additionally, a variance for height is required and will be considered in conjunction with this application. (DAV 05-167780/D)

Analysis

Density
The allowable density for this property under By-law 6400/94 is 238 units. However, because of a previous zoning agreement limiting the density on the subject land, only 59 units can be developed. The previous restrictions limiting density were imposed because of significant concern from the community about preserving the character of the area, potential traffic generation, and the lack of adequate services and amenities for large-scale multiple-family development.

Traffic
It is anticipated that traffic generation will be far less with a multiple-family residential use than what would occur with a commercial development, which had previously been approved for this site.

According to standard industry traffic generation rates, a condominium or townhome development generates approximately ¼ of the traffic generated by a retail shopping center. (Source: Institute of Transportation Engineers (ITE) Trip Generation).

Services and Amenities
The subject site is located on Leila, which is a major transit corridor, and is in close proximity to both Seven Oaks Hospital and Garden City, which is one of the largest commercial clusters in the City. In that vein, the subject site is a very desirable location for the development of additional multiple-family units. It should be noted that developments of this type often provide an opportunity for individuals who already live in the community to transition to new, simpler living arrangements while still remaining in the community.

Neighbourhood Character
In order to provide a high quality development which will mesh with the adjacent residences, the buildings will utilize a variety of design techniques and added features to "break up" the façade into smaller sections. The design techniques and features will include roof articulation, balconies, vertical columns, and glazing.

To enhance the vertical interest of the buildings, the applicant will use complimentary colours and a variety of building materials, which include acrylic stucco and masonry brick along the first floor and on the vertical columns.

In order to avoid a large asphalt parking area, the majority of spaces will be located underground with only visitor parking above ground.

Finally, intensive landscaping and screening, especially along Pipeline Road and Leila Avenue, will be included to provide a suitable transition from public to private space. Landscaping features will include the planting trees and shrubs, landscape berms, and decorative iron post fencing. Finally, the applicant proposes to include a central courtyard with a gazebo and water fountain, which will provide a usable, accessible, and highly visible on-site people place.

For these reasons, the Planning and Land Use Division recommends that Clause 9 of DASZ 8/97 and Clause 7 of DASZ 9/04, with respect to building height, be discharged.

Height
The allowable height for this development, under By-law 6400/94, is 45 feet. However, two previous zoning agreements limited the height of development to 40 feet or 3 storeys. The previous height restriction were imposed because of concern from the community about preservation of the existing residential character by maintaining a compatible scale of development.

Compatibility
It should also be noted that the original site plan called for the Phase I and Phase II buildings to be 361 feet in length. The Planning and Land Use Division was concerned about the length of the buildings and their potential to appear out of scale with adjacent development. In response, the applicant reduced the length of the Phase I and Phase II buildings by 50 feet – which resulted in the loss of 16 units. Consequently, they wish to achieve the original density by increasing the height to Phase III.

In light of the fact that the Phase III building will be screened by adjacent development on all four sides and because it is oriented perpendicular to Leila Road, the additional height and massing will be substantially masked from external view and will reduce any incompatibilities that might arise from the additional height that is being proposed.

For that reason, the Planning and Land Use Division recommends that Clause 8 of DASZ 8/97, with respect to density, be discharged.

Recommendation

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

- The proposed density is consistent with is permitted under By-law 6400/94
- The location is appropriate for higher density multiple-family residential
- In order to provide a high quality development which will mesh with the adjacent residences, the buildings will utilize a variety of design techniques and added features
- The additional height and massing of Phase III will be substantially masked from external view by other buildings.

Recommended Conditions of Approval

I. That the Zoning Agreement Caveat No.2820660 under file no. DASZ 8/97, dated, July 24, 1997 (By-Law # 6/2003), be amended for the subject property as follows:
   A. Delete clause 8 related to density
   B. Delete clause 9 related to height

II. That the Zoning Agreement Caveat No. 3228411 under file no. DASZ 9/04, dated, June 23, 2004 (By-Law #94/05), be amended for the subject property as follows:
   a) Delete clause 7 related to height

III. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 8/97 (By-Law # 6/2003), dated, July 24, 1997 and DASZ 9/04 (By-Law # 94/2005), dated, June 23, 2004 as approved in aforesaid Clauses I and II.

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

V. 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: Michael Robinson, AICP
PPD File #: 3.326

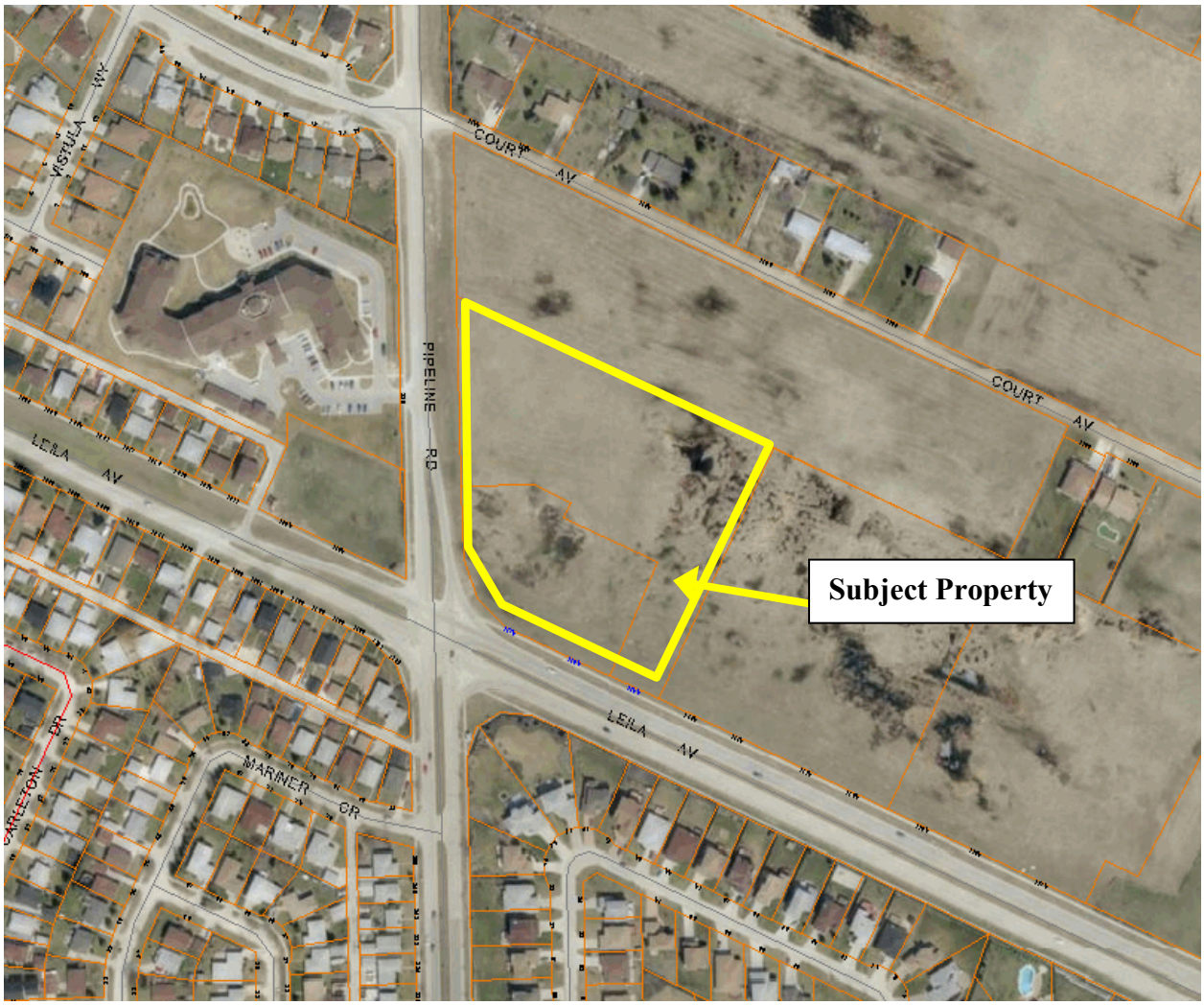


Figure 1: Aerial Photograph (Flown in 2002