Report - Standing Policy Committee on Property and Development - April 4, 2006

Item No. 16 Zoning Agreement Amendment - 720 St. Anne's Road
File ZAA 1/2006

STANDING COMMITTEE RECOMMENDATION:

On April 19, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee and submits the following to Council:

1. That Zoning Agreement Caveat No. 3105858 under Files DASZ 40/85A and ZAA 10/2004 dated January 26, 2005 (By-law No. 4314/86), be amended as follows:

   A. That Clause 8 of the subject zoning agreement be amended to read "the owner is required to construct a minimum six (6) foot high concrete wall along the entire length of the west property line" instead of the current wording that reads "the owner is required to construct a six (6) foot high concrete wall along the entire length of the west property line".

   B. That Clause 9 of the subject agreement be amended to read "no business shall be operated on the land between the hours of 1:00 a.m. and 7:00 a.m. excepting drive-through operations instead of the current wording that reads "no business shall be operated on the land between the hours of 1:00 a.m. and 7:00 a.m."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 40/85A and ZAA 10/2004 (By-law No 4314/05) dated January 6, 2005, 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 - April 4, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 19, 2006, 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 April 4, 2006, 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 March 28, 2006, 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 - 720 St. Anne's Road**
File ZAA 1/2006

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

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

Report date: **March 29, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On Mach 28, 2006, the Riel Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement Caveat No. 3105858 under files DASZ 40/85A and ZAA 10/2004, dated January 26, 2005 (By-law No. 4314/86), be amended as follows:

   A. That Clause 8 of the subject zoning agreement be amended to read "the owner is required to construct a minimum six (6) foot high concrete wall along the entire length of the west property line" instead of the current wording that reads "the owner is required to construct a six (6) foot high concrete wall along the entire length of the west property line".

   B. That Clause 9 of the subject agreement be amended to read "no business shall be operated on the land between the hours of 1:00 a.m. and 7:00 a.m. excepting drive-through operations instead of the current wording that reads "no business shall be operated on the land between the hours of 1:00 a.m. and 7:00 a.m."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 40/85A and ZAA 10/2004 (By-law No 4314/05) dated, January 6, 2005 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 Planning and Land Use Division dated March 21, 2006.

PUBLIC HEARING SUMMARY

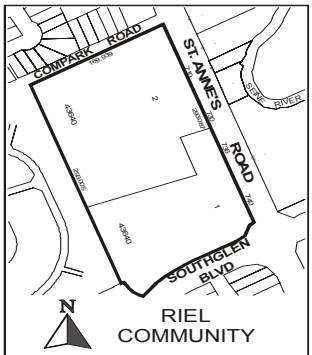
File: ZAA 1/2006

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

Public Hearing: March 28, 2006
Council Building, 510 Main Street

Applicant: ND-Lea Engineers and Planners Inc. (Veronica Hicks)

Subject:



APPLICANT : ND-LEA ENGINEERS & PLANNERS INC.
FILE: ZAA 1/06
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above as follows: (1) To Amend the clause which states that no business shall be operated on the land between the hours of 1:00 a.m. and 7:00 a.m., by adding the following "except drive through operations" and (2) by amending the clause wherein the owner is required to construct a six foot high concrete wall along the entire length of the west property line, by adding the word "minimum" before six foot high concrete wall… **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : ND-LEA ENGINEERS & PLANNERS INC.
N° DE RÉFÉRENCE : MCZ 1/06
PROJET : Projet de modification de la convention de zonage touchant les biens-fonds indiqués ci-dessus et visant à : (I) Modification de la disposition qui interdit l'exploitation d'une entreprise sur le terrain entre 1 heure et 7 heures, par l'adjonction de « except drive through operations » et (2) modification de la disposition qui oblige le propriétaire à construire un mur en béton de six pieds de hauteur le long de toute la limite ouest de la propriété, par l'adjonction du mot « minimum » avant « six foot high concrete wall ». **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 720 St. Anne's Road

Exhibits Filed:

1. Application dated February 9, 2006
2. Notification of Public Hearing dated February 21, 2006
3. Manitoba Status of Titles 20703788 and 2070380
4. Letter of authorization dated January 29, 2004 from 71512 Manitoba Inc. to ND LEA Engineers and Planners Inc.
5. Zoning Development Information
6. Caveat No. 3105858
7. Plan
8. Report from the Planning and Land Use Division dated March 21, 2006
9. Inspection Report

REPRESENTATIONS:

In Support:

Veronica Hicks

In Opposition

Georgina M. Lowen

For Information:

Bonnie Start

For the City:

Mr. K. Lalor, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Veronica Hicks, ND Lea Engineers and Planners Inc., appeared in support of the application and provided an overview of the proposal.

Georgina M. Lowen appeared in opposition to the application. Ms. Lowen stated that the development has not been properly planned and that many people use the lot as a short cut, a problem that will be exasperated with the establishment of a twenty-four (24) hour drive through.

Ms. Lowen further stated that she is opposed to the a twenty-four (24) hour drive through restaurant being permitted on the site.

In rebuttal, Ms. Hicks stated that the proposed twenty-four (24) hour restaurant will be located adjacent to St. Anne's Road so it is anticipated that all traffic accessing the restaurant will ingress/egress via St. Anne's Road.

Exhibit "8" referred to in File ZAA 1/2006

Planning, Property and Development Department Report

To the Riel Community Committee

Date: March 21/ 2006
File: ZAA 1 /06
Related Files: DCU 06 100821C, DASSF 540/2004, ZAA 10/ 2004, DASZ 40/85A
Subject: To amend Clause 8 of the subject zoning agreement to read as follows " the owner is required to construct a minimum six foot high concrete wall along the entire length of the west property line" instead of the current wording that reads " the owner is required to construct a six foot high concrete wall along the entire length of the west property line" and to further amend Clause 9 of the subject agreement to read as follows " no business shall be operated on the land between the hours of 1:00 a.m. and 7:00 a.m., excepting drive through operations" instead of the current wording that reads " no business shall be operated on the land between the hours of 1:00 a.m. and 7:00 a.m.".

Location: 720 St. Anne's Road

Legal Description: Lots 1 & 2 , Plan 43640



2200

Applicant: ND LEA Engineers & Planners

Owner: 71512 Manitoba Inc. (Michael Nozick)

Recommendation: (Approved with Conditions)

Site Description

The subject site has approximately 960 feet of frontage along St. Anne's Road and has a depth of 560 feet. The overall site area totals 12.3 acres and is zoned C2 Commercial. To the west is a mobile home subdivision zoned A-5 ; to the north are single family homes along Compark Rd. zoned R1-3 and R1-4 Residential ; east of St. Anne's Rd. is a new personal care facility in the process of being rezoned to C2 Commercial. South of Southglen Blvd. are existing single family dwellings zoned R1-3-5.

Background

The site is currently well on its way to being fully developed with a pharmacy, a food-store, a drive –through restaurant, a bank , a gas sales outlet and various other retail businesses. As each new tenant has been identified, revised plans have been submitted to the Community Committee for approval. And on occasion, applications have been made to amend the original zoning agreement i.e. to reduce building setbacks in some instances and to increase the number of permitted uses on site. The Community Committee has agreed to those concessions but in return, the owners have agreed to limited access to streets like Compark Rd. from the proposed development and have also agreed to constructing a noise attenuation wall along the west boundary line adjoining the mobile home subdivision area. In the most recent amendment changes, the owner has requested that the hours of operation for drive-throughs on the site (the restaurant and the bank) be extended to twenty four hours. They have also asked that the noise attenuation wall not be restricted to a minimum six feet in order to allow for some flexibility in those areas closest to the loading areas of the food store for example. In those areas, the wall might have to be marginally higher in order to actually adequately provide a noise buffer.

Analysis

The Planning, Property and Development Division understands the rationale for both the proposed amendments, particularly the need to allow some latitude with respect to the boundary wall. In the case of the hours of operation extension, we do not anticipate a problem with extended hours of operation for the bank drive-through given that it is a low intensity use during the late evening to early morning hours. Neither do we foresee a problem with extending the hours for the restaurant drive –through given that its location is reasonably well removed from nearby residential housing areas. If the drive through for the restaurant had been in close proximity to any of the adjacent residential areas, we would not have endorsed expanded hours of operation. It should be noted that the site, from our perspective, is close to being developed to

its maximum building coverage. Any remaining undeveloped areas, particularly in the s.e. corner of the site should be left as spill over areas for future parking.

Recommendation

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

Recommended Conditions of Approval

I. That the Zoning Agreement Caveat No. 3105858 under file no. DASZ 40/85A and ZAA 10/2004, dated, January 26/2005 (By-Law # 4314/86), be amended *as follows : that clause 8 of the subject zoning agreement be amended to read" the owner is required to construct a minimum six (6') foot high concrete wall along the entire length of the west property line" instead of the current wording that reads " the owner is required to construct a six (6') foot high concrete wall along the entire length of the west property line". And that clause 9 of the subject agreement be amended to read " no business shall be operated on the land between the hours of 1:00 a.m. & 7:00 a.m. excepting drive-through operations instead of the current wording that reads " no business shall be operated on the land between the hours of 1:00 a.m. & 7:00 a.m."*

II. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 40/85A and ZAA 10/04 (By-Law # 4314/05), dated, J ANUARY 6/05 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