Minute No. 835
Report - Standing Policy Committee on Property and Development - September 19, 2006

Item No. 5 Zoning Agreement Amendment – 555 Burnell Street
File ZAA 8/2006 [c/r DAZ 116/73]

COUNCIL DECISION:

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

1. That Zoning Agreement Caveat No. 230661 under File DAZ 116/73 dated May 29, 1974 (By-law No. 643/74), be amended as follows:

   A. By deleting Clause 3 in its entirety and replacing it with the following new clause, namely:

      "3. No building shall be located within the northerly seventy-five (75) feet of the property, with the exception of an uncovered surface parking area and detached accessory structures".

   B. By deleting Clause 4 in its entirety and renumbering the remaining clauses.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 116/73 (By-law No. 643/74) dated May 29, 1974, 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 - September 19, 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 September 21, 2006, 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 September 19, 2006, 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 September 5, 2006, the City Centre Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment – 555 Burnell Street**
File ZAA 8/2006 [c/r DAV 144175/2006D]

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

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

Report date: **September 8, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 5, 2006, the City Centre 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. 230661 under File DAZ 116/73 dated May 29, 1974 (By-law No. 643/74), be amended as follows:

   A. By deleting Clause 3 in its entirety and replacing it with the following new clause, namely:

      "3. No building shall be located within the northerly seventy-five (75) feet of the property, with the exception of an uncovered surface parking area and detached accessory structures";

   B. By deleting Clause 4 in its entirety and renumbering the remaining clauses.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 116/73 (By-law No. 643/74) dated May 29, 1974, 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 City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. The original agreement incorporated greenspace as a buffer, but there is a 6 foot fence on the property.

2. The preference is to have green space but parking is essential.

PUBLIC HEARING SUMMARY

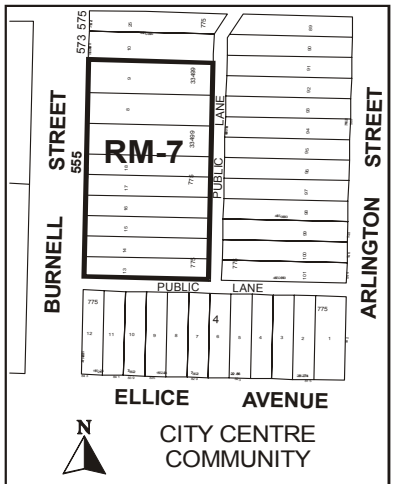
File: ZAA 8/2006 [c/r DAV 144175/2006D]

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

Public Hearing: September 5, 2006
West Committee Room
Council Building, 510 Main Street

Applicant: Massey Management Services (Raymond Massey)

Subject:



APPLICANT : MASSEY MANAGEMENT SERVICES
FILE : ZAA 8/06
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above by deleting the clauses: (i) The northerly seventy-five (75) feet of the land shall be cleared, landscaped and maintained as a landscaped portion of the building site without any building thereon to the satisfaction of the City. (ii) The parking ratio in respect of any Senior Citizens Residence constructed on the land shall be 0.2 times the number of suites contained in the Residence. **For information, phone Mr. M. Sandhurst, Planner at 986-5066.**

Premises Affected: 555 Burnell Street

Exhibits Filed:

1. Application dated July 26, 2006
2. Notification of Public Hearing dated August 2, 2006
3. Manitoba Status of Titles 1289531, 1285594, 1279904, 1283615, 1285597, 1279900, 1449995, 1449997, 1449998
4. Letter of authorization dated May 11, 2006 from Gloria Tymm, Chairperson, Arms of the Cross Housing Inc., to Massey Management
5. Surveyor's Building Location Certificate and sketch dated July 20, 2006
6. Caveat No. 199766
7. Zoning Agreement DAZ 116/73
8. Zoning Agreement Amendment ZAA 7/77
9. Plans (2 pages)
10. Report from the Planning and Land Use Division dated August 28, 2006
11. Inspection Report
12. Presentation, in support of the application, submitted by the applicant Raymon Massey, Massey Management Services, at the public hearing

REPRESENTATIONS:

In Support:

Raymon Massey, Massey Management Services
Gloria Tymm

In Opposition

Robin D. Crellin
Verna Kane
K. Rempel-Kane

For Information:

Nil

For the City:

M. Sandhurst, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Raymond Massey, Massey Management Services, appeared in support of the application and read into the record a presentation filed as Exhibit 12. In response to committee's questions, Mr. Massey stated that there was a need for additional parking for the building's tenants. He also stated that the greenspace on the property was privately owned and fenced in.

Verna Kane appeared in opposition to the application. Ms Kane stated concerns with the original agreement requiring greenspace between the development and the residential homes, the existing parking lot not currently being fully used, snow clearing, exhaust from cars, noise from slamming car doors, and poor drainage. She also stated that the greenspace was good for the area residents and the tenants of the development. In response to the committee's questions, Ms Kane stated she was the resident directly next to the development.

Robin Gellin appeared in opposition to the application. Mr. Gellin stated concerns with the loss of the greenspace created by the original agreement as a buffer, noise from the air conditioning, snow piling currently done on the greenspace, the destruction of trees to make room for parking, the lack of drainage in the area, and vandalism. He also stated that the tenants of the development should use public transportation or move to a location where parking existed.

In rebuttal, Mr. Massey stated there was a 6 foot privacy fence along the east side wall and that snow had been piled on the greenspace because it was private property. In response to committee's questions, Mr. Massey stated that with the increase in parking stalls they would now have to haul away the snow. He also stated that the lease agreement prohibited backing into the stalls, to eliminate fumes from cars being directed at neighbours.. He further stated that noise was a city-wide problem and not specific to this application.. He also further stated that the tenants wanted parking on their property and were aware of the application.

Exhibit "10" referred to in File ZAA 8/2006 [c/r DAV 144175/2006D]

Winnipeg

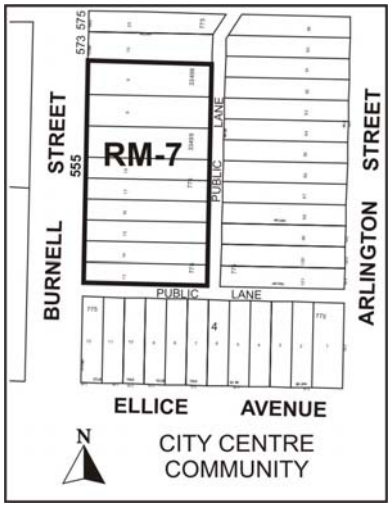
Planning, Property and Development Department Report

To City Centre Community Committee

Date: August 28, 2006
File: **ZAA 8/06**
Related Files: DAV 06-144175/D
Subject: To amend the Zoning Agreement affecting the land shown below by deleting clauses:

1) The northerly 75 feet of the land shall be cleared, landscaped, and maintained as a landscaped portion of the building site without any building thereon to the satisfaction of the City; and
2) The parking ratio in respect of any Senior Citizens Residence constructed on the land shall be 0.2 times the number of suites contained in the Residence.

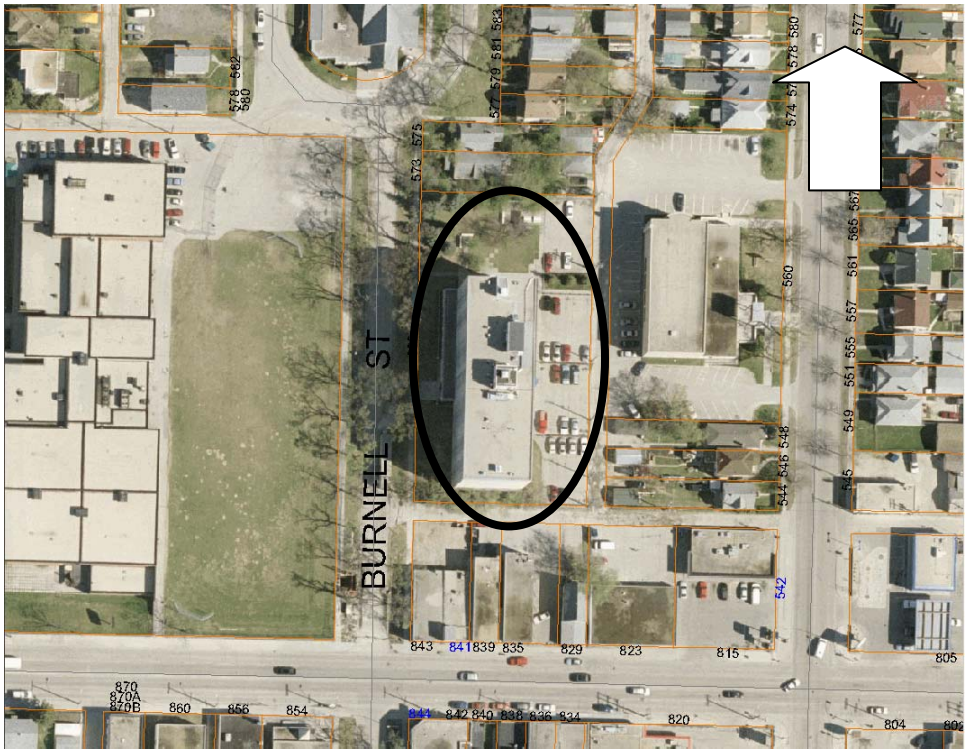
Location: 555 Burnell Street
Legal Description: Lot 13/18 Block 4 Plan 775 ST JA Lot 7/9 Plan 33499 63/65 ST JA



Applicant: Raymond Massey Massey Management Services
Owner: Arms of the Cross Housing Inc
Recommendation: *Approved with conditions*

Site Description

The subject site is located along the east side of Burnell Street, north of Ellice Avenue. The site is developed with a 9-storey seniors residence, zoned "RM-7" Multiple-Family District. Neighbouring properties include older dwellings (to the north, zoned "R2-T" Two-Family Transitional District), a church (across the public lane to the east, zoned "R2-T"), retail and personal service uses along Ellice Avenue (across the public lane to the south, zoned "C1.5" Commercial District), and a school (across Burnell Street to the west, zoned "R2-T").



Subject site: aerial photo flown 2005.

Description of the Proposed Development

The applicant intends to establish a 12-space parking area between the building's north wall and the north property line. The proposed asphalt-surfaced parking area is adjacent to the existing approximately 40-space parking area. In addition to the Zoning Agreement amendment, variance of parking provisions is also necessary to establish the proposed parking area (the subject of DAV 06-144175/D).

Analysis
This portion of the St. Matthews neighbourhood is designated "Neighbourhood" under *Plan Winnipeg*. This designation accommodates a variety of residential densities and built forms, along with commercial, institutional, and parks & recreation uses. The parking area is proposed in order to address a shortage of offstreet parking spaces for tenants of the seniors residence. Plans submitted indicate no new building or expansion of the 9-storey residence is proposed and that a substantial portion (approximately 86-feet by 56-feet) of the tenant park area will be maintained.

The Zoning Agreement clauses were likely intended to ensure adequate separation between the 9-storey building and nearby residences and provision of private onsite park amenities for residents. The proposed 12-space parking area will have no appreciable impacts on adjacent properties or on the surrounding area, subject to the recommended amendments to the Zoning Agreement.

Recommendation

The Planning and Land Use Division recommends the Zoning Agreement amendments be approved, as specified in the "Recommended Conditions of Approval", for the following reasons:

- The proposal is consistent with *Plan Winnipeg*; and
- The proposed amendments will provide site development flexibility while continuing to provide adequate principal building separation from neighbouring properties.

Recommended Conditions of Approval

I. That the Zoning Agreement Caveat No. 230661 under file no. DAZ 116/73, dated May 29, 1974 (By-Law #643/74), be amended as follows:

1) By replacing Clause 3 - "The northerly seventy-five (75) feet of the land shall be cleared, landscaped and maintained as a landscaped portion of the building site without any building thereon to the satisfaction of the City"—with "No building shall be located within the northerly 75 feet of the property, with the exception of an uncovered surface parking area and detached accessory structures";

2) By deleting Clause 4 - "The parking ratio in respect of any Senior Citizens Residence constructed on the land shall be 0.2 times the number of suites contained in the Residence."

II. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 116/73 (By-Law #643/74), dated May 29, 1974, 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: M. Sandhurst
PPD File # ZAA 8/06