Agenda - Council - January 29, 2003

Report - Standing Policy Committee on Property and Development - January 6, 2003

Item No. 3 Proposed Plan of Subdivision and Rezoning - 1617 St. Mary's Road File DASZ 23/2002

STANDING COMMITTEE RECOMMENDATION:

On January 22, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee, and submits the following to Council:

1. That the plan of subdivision proposed under File DASZ 23/2002 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 23/2002 dated November 5, 2002, for registration in the Winnipeg Land Titles Office.

2. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

3. That Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 23/2002 dated November 5, 2002, to a "C2" Commercial District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 591(1) of The City of Winnipeg Act to apply to the subject site to include the following conditions:

    A. That final site plans indicating details of all proposed building locations, landscaping, fencing, on site lighting, parking, free standing signage, garbage enclosures etc. be submitted to and approved by the Riel Community Committee prior to the issuance of any building permits.

    B. That all approaches to and from the site be subject to approval by the Public Works Division.

    C. That the applicant be required to apply for and obtain variances for:

        i. Eight (8) foot high fencing to be established and maintained along the full length of the east property line and

ii. A combination of both eight (8) foot high fencing and masonry noise attenuation walls to be established and maintained along the full length of the north property line between St. Mary's Road and the north east corner of the subject site.

D. That the hours of operation be restricted to between 7:00 a.m. and 11:00 p.m. seven days a week.

4. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

5. That in the event this application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

6. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

7. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office, except that the “C2” Commercial District, applying to DASZ 23/2002 shall come into force and effect when the Zoning Agreement has been filed by caveat as a first charge in the Winnipeg Land Titles Office against those lands provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

8. That the Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

9. In the event that the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

Agenda - Council - January 29, 2003

Report - Standing Policy Committee on Property and Development - January 6, 2003

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 22, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 6, 2003, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee, and submitted its recommendation to Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 12, 2002, the Riel Community Committee concurred in the administrative recommendation as amended, and submitted its recommendation to the Standing Policy Committee on Property and Development.

Re: **Proposed Plan of Subdivision and Zoning Change Report - 1617 St. Mary's Road**
File DASZ 23/2002 (c/r DCU 195 /2002D and DAV 805/2002D)

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

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

Report date: **November 20, 2002**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 12, 2002, the Riel Community Committee concurred in the administrative recommendation as amended and recommends:

1. That the plan of subdivision proposed under File DASZ 23/2002 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 23/2002 dated November 5, 2002, for registration in the Winnipeg Land Titles Office.

2. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

3. That Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 23/2002 dated November 5, 2002, to a "C2" Commercial District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 591(1) of The City of Winnipeg Act to apply to the subject site to include the following conditions:

    A. That final site plans indicating details of all proposed building locations, landscaping, fencing, on site lighting, parking, free standing signage, garbage enclosures etc. be submitted to and approved by the Riel Community Committee prior to the issuance of any building permits.

    B. That all approaches to and from the site be subject to approval by the Public Works Division.

    C. That the applicant be required to apply for and obtain variances for:

        i. eight (8) foot high fencing to be established and maintained along the full length of the east property line and

ii. a combination of both eight (8) foot high fencing and masonry noise attenuation walls to be established and maintained along the full length of the north property line between St. Mary's Road and the north east corner of the subject site.

D. That the hours of operation be restricted to between 7:00 a.m. and 11:00 p.m. seven days a week.

4. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

5. That, in the event this application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

6. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

7. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office, except that the "C2" District, applying to DASZ 23/2002 shall come into force and effect when the Zoning Agreement has been filed by caveat as a first charge in the Winnipeg Land Titles Office against those lands provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

8. The Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

9. In the event that the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

Note: Bold and italicized wording denotes variation between administrative recommendations and recommendations of the Assiniboia Community Committee.

The Riel Community Committee provided the following supporting reasons for its recommendations:

1. The Riel Community Committee agrees with the administrative comments contained in the report of the Manager of Planning and Land Use.
2. The majority of development along St. Mary's Road is commercial in nature.

REPORT SUMMARY

Public Hearing:	November 12, 2002 Community Committee Chamber, 219 Provencher Boulevard
Before:	Councillor Vandal, Chairperson Councillor Angus Councillor Steeves
Applicant:	JMK Construction 1019 Springfield Road Winnipeg, MB R2G 3T2
Subject:	



Premises Affected: 1617 St. Mary's Road

Exhibits Filed:

1. Application dated August 14, 2002
2. Notification of Public Hearing to Applicant dated October 15, 2002
3. Manitoba Status of Title 1748003
4. Letter of authorization from Noel Bernier, Commercial Petroleum Manager to Tim Klassen dated August 6, 2002
5. Extract of Atlas Sheet AJ27
6. Drawing of subject property/sign
7. Proposed Site Plans, Sheets 1 to 4 inclusive for File DASZ 23/2002 dated August 6, 2002
8. Report from the Manager of Planning and Land Use dated November 5, 2002
9. Photograph(s) of the site and Inspection Notice

10. Presentation made by Jeff Goossen at the public hearing on November 12, 2002, opposing the application
11. Communication from Dave Yallits dated November 5, 2002, suggesting that a pedestrian gate be installed in the north masonry wall at the extreme east end of the proposed development
12. Communication from Mr. and Mrs. Keith Hanna dated November 12, 2002, suggesting that no exit to the proposed development should be allowed from Vista Avenue
13. Communication from Knud E. Markmann opposing the application
14. Communication from Ross C. Martin and Pamela Christler dated November 7, 2002, suggesting that the wall on the east side of the development be an eight foot high masonry sound barrier
15. Presentation made by Mr. and Mrs. Ron Friesen opposing the application submitted at the public hearing on November 12, 2002
16. Presentation made by Michael Kelly at the public hearing on November 12, 2002, opposing the application and petition, purporting to contain the signatures of forty-one (41) area residents, opposing the application

REPRESENTATIONS:

In Support:

Andy Adams, 100 - One Evergreen Place, Winnipeg, Manitoba, R3L 0E9
Bob Antymniuk, 1208 - 220 Portage Avenue, Winnipeg, Manitoba, R3C 0A5
Noel Bernier, 13 Frontenac Bay, Winnipeg, Manitoba, R2J 2H1
Stan Dychko, 3070 St. Mary's Road, Winnipeg, Manitoba, R2M 4E1
Fred Homann, 18 Glenbrook Crescent, Winnipeg, Manitoba, R3T 4W4
Tim Klassen, 1019 Sprinfield Road, Winnipeg, Manitoba, R2G 3T2

In Opposition:

Mr. and Mrs. Ron Friesen, 19 Vista Avenue, Winnipeg, Manitoba, R2M 4Z1
Jeff Goossen, 23 Vista Avenue, Winnipeg, Manitoba, R2M 4Z1
Fred Heiland, 58 Woodydell Avenue, Winnipeg, Manitoba, R2M 2T9
Michael Kelly, 18 Woodydell Avenue, Winnipeg, Manitoba, R2M 2T9
Knud E. Markmann, 22 Woodydell Avenue, Winnipeg, Manitoba, R2M 2T9
Ken Thoroski, 14 Woodydell Avenue, Winnipeg, Manitoba, R2M 2T9

For Information:

Stewart Elston, 301 - 850 Scotland Avenue, Winnipeg, Manitoba, R3M 1X7
Mr. and Mrs. Keith Hanna, 1 Rattai Place, Winnipeg, Manitoba, R2M 4W5
L. Katz, 230 Hugo Street, Winnipeg, Manitoba, R3M 2N4
Gordon Heiland, 58 Woodydell Avenue, Winnipeg, Manitoba, R2M 2T9
Ross C. Martin and Pamela Christler, 3 Rattai Place, Winnipeg, Manitoba, R2M 4W5
Dave Yallits, 5 Rattai Place, Winnipeg, Manitoba, R2M 4W5

For the City:

Kevin Lalor, Senior Planner, Planning, Property and Development

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS

MADE AT THE PUBLIC HEARING:

Tim Klassen, JMK Construction, and Noel Bernier, Red River Co-op, appeared in support of the application. Mr. Klassen indicated that it was the Red River Co-op's intention to build a gas bar on the subject property and rezone said property to a "C-2" Commercial District. The development would include a convenience store and a touchless car wash.

Ken Thoroski appeared in opposition to the application. Mr. Thoroski explained that he resides across the backlane from the proposed development and has three (3) young children at home. He indicated that he was opposed to the proposed development for numerous reasons. Mr. Thoroski specified that the establishment of a gas bar at this location would create increased traffic on Woodydell and Vista Avenues and create noise and light pollution. He stated that the development would create dangers for he and his family due to potential gas leaks, explosions and armed hold-ups. Mr. Thoroski explained that there was already a gas station at the same intersection and that another one was not needed. He stated that the proposed fences for the development would invite graffiti and the development as a whole would reduce the value of his property.

Jeff Goosen appeared in opposition to the application. Mr. Goosen read from a prepared statement, filed as Exhibit 10, and submitted letters opposing the application from area residents, filed as Exhibits 11 - 14. Councillor Steeves asked Mr. Goosen if he was supportive of the installation of a pedestrian gate in the fence for the proposed development. Mr. Goosen indicated that he was not supportive of a pedestrian gate.

Mr. and Mrs. Ron Friesen appeared in opposition to the application. Mrs. Friesen read from a prepared statement and submitted same, filed as Exhibit 15.

Michael Kelly appeared in opposition to the application. Mr. Kelly questioned the intent of the Developer and said Developer's intention to rezone the property in question. Mr. Kelly asked where the application would go after being considered by the Riel Community Committee and the Senior Planner explained the process. Mr. Kelly asked that the Committee put themselves in the shoes of the area residents. Councillor Vandal replied that as politicians, it was essential to look at the neighbourhood as a whole as well as addressing the concerns of those residing near the development. Mr. Kelly submitted a letter, which Councillor Vandal read into the record, and a petition from area residents purporting to contain forty-one (41) signatures filed as Exhibit 16.

Mr. Kelly and Mr. Bernier returned in rebuttal. Mr. Bernier briefly explained that Red River Co-op is a company owned by members and that his company's motivation for developing a gas bar in this area could be attributed to membership demand.

Councillor Steeves indicated that many of those who appeared in opposition shared concerns about fencing and that an eight (8) foot concrete fence would be preferred to what was proposed. Mr. Bernier indicated that a wood fence would be much easier to maintain and that a concrete

fence graffiti is much more difficult to clean. The Senior Planner indicated that, should an eight (8) foot fence be installed, a variance would be required.

Councillor Steeves indicated that approval for any changes to approaches is subject to approval by the Public Works Department. Mr. Klassen indicated that he had met with Doug Binda, Private Approaches Technician, Public Works Department, and that Mr. Binda had recommended the approach as detailed on the site plan.

Councillor Steeves asked the applicants about the concerns raised regarding the proposed propane island. Mr. Klassen indicated that the propane would not be for vehicles but for small tanks like those used for barbecues. He further indicated that he would be willing to make the tank smaller, if required.

Councillor Steeves next asked about the adverse affects of the lighting of the proposed facility. Mr. Bernier indicated that he had met with a number of the local residents and had asked them to visit the Red River Co-op's gas bar at the Lindenridge development. He indicated that the lights are bright but are directed toward the ground. The lights along the entrance to the proposed car wash would be floodlights angled downwards illuminating the traffic lane. Mr. Bernier indicated that Red River Co-op encourages good lighting to discourage undesirable elements. Mr. Klassen indicated that for another development, he had consulted with area residents on lighting and would be willing to work with area residents in the development of the lighting for this location.

Councillor Steeves asked the applicant about the loading zone. Mr. Klassen indicated that they could relocate the loading zone as required. He further indicated that only small delivery vehicles would use it and that an entrance to the location is not planned to accommodate the loading zone.

Councillor Steeves next questioned the applicants with regards to the proposed "buffer zone". Mr. Klassen explained that in order to accommodate a larger buffer zone, they would be required to cut down the queuing line, which could create a traffic hazard. He iterated that any increase in the buffer zone would make the configuration of the development unworkable.

Councillor Angus asked the developer about the proposed second car wash. Mr. Bernier indicated that they were not sure if they would add a second car wash or not but that this would be evaluated should the application be approved. Mr. Bernier indicated that, at peak times, up to 300 car washes per day is possible and they will have to crunch numbers to determine if a second car wash is viable.

Councillor Steeves asked about the location of the garbage enclosure. Mr. Klassen indicated that this could be relocated to satisfy concerns from area residents. Councillor Steeves asked about snow removal. Mr. Klassen indicated that snow removal would be done quickly and that it would probably only take about an hour to clean the lot. Mr. Bernier indicated that snow clearing is a necessary part of doing business and does happen at all hours. He further iterated that all snow will be removed and not stored on site.

Councillor Steeves next asked about the purchase of the subject property and the zoning. Mr. Bernier indicated that the owner has a right to sell this property and that the sale of it is subject to Red River Co-op having the land rezoned to "C-2" Commercial District.

Councillor Vandal asked if the applicant had met with area residents prior to the public hearing. Mr. Bernier indicated that he and Mr. Klassen had knocked on the doors of some of the area residents and held a meeting at Jeff Goossen's home to discuss the development with those affected most.

Councillor Steeves indicated that he was supportive of the application to rezone the subject property. He explained that it was not viable for the property to remain residential as it would not be suitable to build homes there. Councillor Steeves explained that development along St. Mary's Road is almost entirely commercial and that he tries to limit commercial development in St. Vital to "red zones" like St. Mary's Road and St. Anne's Road. He stated that before construction of the site could proceed, the applicants will have to submit detailed site plans to the Riel Community Committee. Councillor Steeves articulated that he would review the plan closely paying special attention to the propane tanks, garbage enclosure, landscaping, lighting and fencing. The Senior Planner reminded the applicants that they will be required to obtain a variance for the construction of eight (8) foot high fencing.

In reply please refer to / Référence à rappeler :

(204) 986-5069
Fax / Téléc. : (204) 986-3684

File No. DASZ 23/02 November 5, 2002
Our c/f CP 500 (. 524)

Mr. Marc Pittet
Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear : Mr. Pittet

SUBDIVISION AND REZONING
Land located: 1617 St. Marys Road./ NE corner Novavista
Riel Community
File No. DASZ 23 /02

An application has been received from JMK Construction for approval of a plan of subdivision and related zoning change to Zoning By-Law No. 6400/94 by rezoning the subject lands from an " R1-5" Residential District to a " C2" Commercial District to allow for the establishment of a mini conveniance store with accessory gas islands and car wash..

RELATED FILES: DCU 195/02D , DAV 805/02D



SITE DESCRIPTION:

Site Area:

Approximately 40,000 sq. feet in area- slightly less than an acre.

Existing Land Use and Zoning:

The land is in its entirety zoned R1-5 Single Family Residential but has only one building on site which fronts onto St. Mary's Road. It is otherwise vacant. The lane right-of –way owned by the City which divides the property in half is currently unopened.

Surrounding Land Use and Zoning:

North: To the north along St. Mary's Road are office buildings/ businesses zoned C2 Commercial.
South: To the south is a large commercial mall/ parking area zoned C2 Commercial.
East: Immediately to the east along Vista is a residential neighbourhood zoned R1-5 Residential.
West: To the west of St. Mary's Road is service station / parking area zoned C2 Commercial.

DEVELOPMENT DESCRIPTION:

The prospective owners propose to first have the aforementioned lane closed and then having purchased it from the City, consolidate it with two adjoining parcels to create a single much larger one-acre site. If the subject rezoning is approved, the owners propose to establish a mini convenience/ food store with gas islands and accessory car wash. There will be no access to the rear lane on the north side of the property; approaches are to be via St. Mary's Road and Vista Ave subject to approval by the Public Works Division.

PLAN WINNIPEG:

The application to rezone to Commercial is in full compliance with Plan Winnipeg Policy. The property in question falls within a designated Neighbourhood Policy Area which allows for commercial development.

ADMINISTRATIVE COMMENTS:

Over the past ten years there have been numerous inquiries with respect to the possibility of rezoning and developing the corner property to commercial development. Nothing has happened because the lot is in itself small and difficult to properly access for most types of commercial development. The Planning and Land Use Division accordingly advised developers that in order to effectively develop the property, it would probably be advisable to attempt to purchase the two adjoining properties to the east which includes the unopened lane right-of –way owned by the City of Winnipeg. Developers were also advised that should those properties be obtained and an application made, submitted site plans should provide an adequate level of buffering along the east property line to protect existing residents from the impacts of any

proposed commercial development. An application has been made to consolidate the three aforementioned lots (including the City right-of-way) and consolidate them into one single large lot. The prospective owners propose to establish a small food store (approximately 2450 sq. ft) with gas islands and an accessory car wash component. Proposed approaches to the site appear to be adequate as do plans for on site parking. There will be no direct access to the rear lane; the north property line will be fenced off as will the east property line. This Division has discussed the proposed site plan with the adjoining property owners to the east(the Friesons at 19 Vista) and while they are not opposed to the application as such, they do not feel that the suggested 10' buffer zone is adequate. Nor do they wish to have a commercial enclosure abutting their property. This Division is inclined to agree with the Frieson concerns given that the plans call for the traffic queue to the car wash to parallel the east property line. It is our view that while we similarly support the subject application and the proposed uses, the site is large enough to increase the buffer area along the east property and properly landscape it with berms ,trees, and a six foot solid wood fence. The garbage enclosure should also be move to an alternate location on the lot. Our final suggestion regarding the site plans pertains to the proposed fencing along the north property line : between the proposed car wash masonry wall and the east property line there is a small stretch where only a 2'6" high fence is proposed. That should be increased to 6' in height for both consistency with the proposed new fence along the east property line and to protect the interests of the resident living on the north side of the adjacent lane. It is our recommendation that Schedule A plans be approved by the Community Committee and the Administration prior to the issuance of building permits and that those plans reflect the changes that we have suggested with respect to a 20' buffering area along the east property line, significant berming and planting within that buffer area, relocation of the proposed garbage enclosure to another location on site and finally an increase in height from 2'6" to 6' for all fencing along the north property line.

RECOMMENDATION:

I. That the plan of subdivision proposed under File No. DASZ 23/02, be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule " A" for File No. DASZ 23/02, attached hereto and dated November 5/02, for registration in the Winnipeg Land Titles Office..

II. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

III. That Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule " A" for File No. DASZ 23/02, attached hereto and dated November 5/02, to a " C2" Commercial District , subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 591(1) of The City of Winnipeg Act to apply to the subject site to include the following conditions:

A. That final site plans indicating details of all proposed building locations , landscaping, fencing, on site lighting, parking, free standing signage, garbage

enclosures etc. be submitted to and approved by the Riel Community Committee prior to the issuance of any building permits.

B. That all approaches to and from the site be subject to approval by the Public Works Division.

C. That a minimum 20' buffer area be established along the east property line within which there be extensive berming / landscaping and new fencing provided and maintained. Furthermore all fencing along the north property is to be a minimum of 6' in height and similarly maintained.

IV. That a 10 percent dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

V. That, in the event this application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

VII. That the City Solicitor be requested to prepare the necessary by-law in accordance with the above.

VIII. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office, except that the " C2" District, applying to DASZ 23/02 shall to come into force and effect when the Zoning Agreement has been filed by caveat as a first charge in the Winnipeg Land Titles Office against those lands **provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.**

X. The Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

XI. In the event that the necessary City of Winnipeg mylar approval signatures have not been secured within 24 months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

Final

Yours truly,

V. Buckley
Manager of Planning and Land Use

Per: Kevin Lalor
, Senior Planner
Riel Community

By-Law No. _____

File No. **DASZ 23/02**

Atlas Sheet No. **AJ27**

N

RIEL COMMUNITY

Explanation

An application for the approval of the plan of subdivision shown outlined below and for a proposed zoning change to By-law 6400/94 by rezoning the land located at 1617 St. Mary's Road from an "R1-5" SINGLE-FAMILY DISTRICT to a "C2" COMMERCIAL DISTRICT as shown outlined below.

Schedule " A " for File No. DASZ 23/02, Riel Community Committee, dated November 5/02



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____