Minute No. 622
Report - Standing Policy Committee on Property and Development - September 2, 2008

Item No. 14 Zoning Agreement Amendment - 45/55 Leveque Street (St. Boniface Ward) File ZAA 11/2008

COUNCIL DECISION:

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

1. That the Zoning Agreement under File DAZ 215/2005 (By-law No. 135/2005, Caveat No. 3324900) be amended as follows:

   A. That Condition 9 be deleted in its entirety.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 334/79 (By-law No. 2917/81) 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 2, 2008

DECISION MAKING HISTORY:

Moved by Councillor Swandel,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 17, 2008, 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 September 2, 2008, 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 July 14, 2008, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment - 45/55 Leveque Street**
File ZAA 11/2008

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

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

Report date: **July 16, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 14, 2008, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement under File DAZ 215/2005 (By-law No. 135/2005, Caveat No. 3324900) be amended as follows:

   A. That Condition 9 be deleted in its entirety.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 334/79 (By-law No. 2917/81) 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 of the Planning and Land Use Division dated July 7, 2008.

PUBLIC HEARING SUMMARY

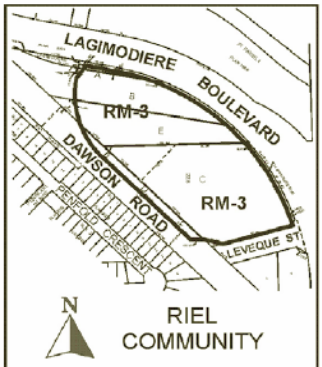
File: ZAA 11/2008

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

Public Hearing: July 14, 2008
Council Chamber, Council Building, 510 Main Street

Applicant: David Goyer Architecture Inc. (David Goyer)

Subject:



APPLICANT : DAVID GOYER ARCHITECTURE INC.
FILE : ZAA 11/08
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above by deleting the following clause which stipulates that a fence shall be constructed along the west limit of the land atop the existing east limit of the right-of-way, approximately forty-two (42) feet to the east of the new property line of the land.. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : DAVID GOYER ARCHITECTURE INC.
N° DE RÉFÉRENCE : MCZ 11/08
PROJET : Demande de modification de la convention de zonage touchant le bien-fonds indiqué ci-dessus par abrogation de la clause suivante qui exige qu'une clôture soit érigée le long de la limite ouest du bien-fonds en haut de l'actuelle limite est de l'emprise, à environ quarante-deux (42) pieds à l'est de la nouvelle limite de propriété. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 45/55 Leveque Street

Exhibits Filed:

1. Application dated May 29, 2008
2. Notification of Public Hearing dated June 4, 2008
3. Manitoba Status of Title 2119178
4. Letter of authorization dated May 9, 2008 from Rob, Erick and Walter Dyck, 4937938 Manitoba Ltd. to David Goyer Architecture Inc.
5. Plans (4 pages)
6. Report from the Planning and Land Use Division dated July 7, 2008
7. Inspection Report
8. Photographs submitted by Ray Cheys at the Public Hearing
9. Communication from Don and Shelley Marion in opposition to the application submitted by Ray Cheys at the Public Hearing
10. Audio Recording of Representations

REPRESENTATIONS:

In Support:

Walter Dyck
David Goyer

In Opposition

Don and Shelley Marion

For Information:

Ray Cheys

For the City:

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

Exhibit "7" referred to in File ZAA 11/2008

Winnipeg

Planning, Property and Development Department Report

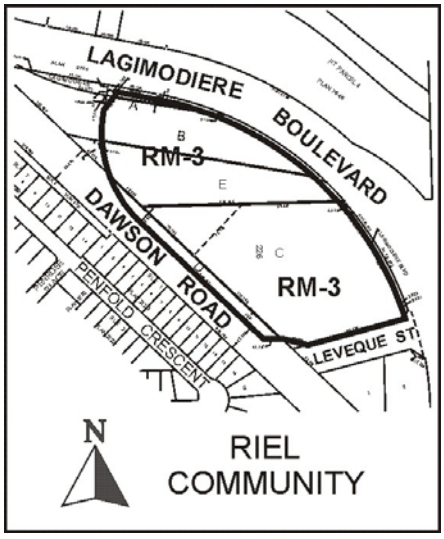
To the Riel Community Committee

Date: July 7/08
File: ZAA 11 /2008
Related Files: N/A

Subject: To amend Zoning Agreement DAZ 215/05 by deleting Condition 9 which states that a fence shall be constructed 42' east of the new west property line of the land in question.

Location: 5-55 Leveque

Legal Description: Parcels A,B,C,D,E of Plan 44414



Applicant: David Goyer Architecture Inc.
Owner: 4937938 Manitoba Ltd.

Recommendation: Approval with conditions

Site Description:



The subject site lies at the n.w. corner of Leveque Street and Lagimodiere Blvd. Properties immediately to the west form part of a residential neighbourhood zoned "R1-M" Single Family.

Background:

On June 21/2005, the Riel Community Committee endorsed a plan (DAZ 215/05) for a five building multiple family complex with an overall total of 298 rental units (to be zoned RMF-M Multiple Family) . In the two preceding months, there had been a significant level of consultation with the resident property owners in the area and the end result was a plan which generally addressed most of the initial concerns. Most of the concerns raised related to the generation of greater traffic volumes through Windsor Park and the height and orientation of several of the

proposed buildings but several modifications to the plan seemed to diffuse many of the original issues. One of the modifications to the plan, which was a response to one of the conditions in the agreement called for a minimum setback of the west boundary fence of 42'. Ultimately the Schedule "A" plans complied with the condition but placed the new fence at 50', approximately 8' from the closest new apartment complex.

Description of the Proposed Development:

One of the conditions of approval in the final zoning agreement indicated that a fence (12' ft. high) had to be constructed at least 42 feet east of the west property line. Its never been established clearly why the Community Committee created this additional buffer area from west property line to fence when it was the proximity to the proposed new structures which was of most concern to adjoining property owners. It may have been that there was an attempt being made to reduce the proximity of the fence from the unopened Dawson Street r.o.w. which is viewed by some as an historical entity which should be protected and preserved. The perceived importance of the Dawson r.o.w. as land of historical significance was high-lighted by the fact that there was an additional condition in the agreement requiring that a commemorative cairn be installed at the south end of the r.o.w. honoring the Dawson Trail. What was not addressed at the time was the future problem of properly maintaining the identified 50' buffer area outside and to the west of the fence. As a result of the difficulties envisaged with 1) future maintenance of the subject grounds and 2) the relative closeness of the proposed 12' high fence to the apartment building itself, the applicants have requested that the subject clause be deleted. Effectively, that would allow the west boundary fence to be pushed back 50', thereby allowing that extra open space area to become internal to the property and thereby allowing it to be more efficiently utilized and maintained.

Analysis:

It is our contention that advancing the required fence 50' closer to the edge of the west boundary of the site does not 1) impact on the significance of the Dawson r.o.w. nor 2) does it have any perceived negative impact on the adjoining residences which are still 89' away . What it will do is allow for better utilization and maintenance of lands within the fenced in boundaries , which , by the way, are to be heavily landscaped with a belt of trees. The applicant has indicated that the proposed amendment to the zoning agreement which translates into a relocation of the fence, has been introduced to effected resident group representatives and has been endorsed by them.

Recommendation:

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

- It is not felt that the proximity of the fence so close to the new buildings achieves any worthwhile purpose and is not an efficient use of open green space.

Recommended Conditions of Approval:

1. That Zoning Agreement under File DAZ 215/05 (By-law 135/05, Caveat # 3324900) , be amended as follows:

   A. That Condition 9 be deleted in its entirety.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 334/79 (By-Law No. 2917/81) 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.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: Kevin Lalor
PPD File # .532