Winnipeg

The City of Winnipeg
VARIANCE ORDER
EXECUTIVE POLICY COMMITTEE

DAV 157053/2008D
[c/r EP-1.1(PW 2/2008), DASZ 37/2008, DAC 1/2009]

Before:	Executive Policy Committee His Worship Mayor Katz, Chairperson Deputy Mayor Swandel Councillor Clement Councillor Fielding Councillor Pagtakhan Councillor Steeves Councillor Wyatt
Hearing:	March 18, 2009 Council Chamber Council Building, 510 Main Street
Applicant:	MMM Group Limited (Paul McNeil)
Premises Affected:	977 Kenaston Boulevard
Legal Description:	Parcel 4, Plan 8361, exc Pcl A, Plan 43883 and exc. Road Plan 43883 and part of Wilkes Avenue to be closed west of Kenaston Boulevard and east of Sterling Lyon Parkway, hereinafter called "the land"
Property Zoned:	"M2/M3" Manufacturing General/Manufacturing Heavy District (Proposed "C4" Commercial Regional District and "CMU" Commercial Mixed Use District)
Zoning Atlas Sheet:	AF19

…/2

Nature of Application: To vary the proposed "C4" Commercial Regional District dimensional standards of The Winnipeg Zoning By-law No. 200/2006 for the erection of free standing signs to permit as follows:

1. on proposed Lot 1, Block 1:
   a) a height of 155 feet (47.2 metres), for the navigational tower, instead of 30 feet (9.1 metres);
   b) a height of 40 feet (12.2 metres), for the store flags, instead of 30 feet (9.1 metres);
   c) a total sign surface area of 2,920 square feet (271.3 square metres) instead of 646 square feet (60.0 square metres)
   d) an individual sign (the navigational tower) exceeding 323 square feet (30 square metres);

2. on proposed Lot 4, Block 1:
   a) a height of 35 feet (10.7 metres) instead of 30 feet (9.1 metres);
   b) a sign surface area of 377 square feet (35 square metres) instead of 281 square feet (26.1 square metres);
   c) an individual sign exceeding 323 square feet (30 square metres);

3. on proposed Lot 1, Block 2, and Lot 9, Block 3:
   a) a height of 35 feet (10.7 metres) instead of 30 feet (9.1 metres);
   b) a sign surface area of 377 square feet (35 square metres) instead of 323 square feet (30 square metres);
   c) an individual sign exceeding 323 square feet (30 square metres);

4. on proposed Lot 1, Block 3:
   a) a height of 35 feet (10.7 metres) instead of 30 feet (9.1 meters);
   b) an individual sign exceeding 323 square feet (30 square metres);

…/3

5. on proposed Lot 16, Block 3:
   a) a height of 35 feet (10.7 metres) instead of 30 feet (9.1 metres);
   b) a sign surface area of 377 square feet (35 square metres) instead of 257.5 square feet (23.92 square metres);
   c) an individual sign exceeding 323 square feet (30 square metres);

To vary the proposed "CMU" Commercial Mixed Use District dimensional standards of The Winnipeg Zoning By-law No. 200/2006 for the erection of a free standing sign on proposed Lot 1, Block 2, to permit:

a) a height of 35 feet (10.7 metres) instead of 20 feet (6.1 metres);
b) a sign surface area of 377 square feet (35 square metres) instead of 323 square feet (30 square metres).

To vary the proposed "C4" Commercial Regional District dimensional standards of The Winnipeg Zoning By-law No. 200/2006 for the establishment of an accessory parking area, on proposed Lot 1, Block 1, to permit 50 lockable bicycle parking spaces instead of 140 bicycle parking spaces.

To vary the proposed "C4" Commercial Regional District and "CMU" Commercial Mixed Use District dimensional standards of The Winnipeg Zoning By-law No. 200/2006 to permit the establishment of proposed Lot 3, Block 1; Lots 6 to 11, Block 1; Lots 2 to 3, Block 3; and Lots 5 to 7, Block 3, which do not abut upon a public street.

It is the opinion of the Executive Policy Committee that subject to conditions listed below, if any, this Order meets the statutory criteria of The City of Winnipeg Charter in that it:

(a) is consistent with Plan Winnipeg, and any applicable secondary plan;

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(c) is the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

. . . /4

(d) is compatible with the area in which the property to be affected is situated.

C.W. Charter Subsection 247(3)

ORDER:

The Executive Policy Committee orders:

1. That the dimensional standards of the proposed "C4" Commercial Regional District of The Winnipeg Zoning By-law No. 200/2006 are varied on "the land" for the erection of free standing signs to permit as follows:

   A. on proposed Lot 1, Block 1:
      i. a height of 155 feet (47.2 metres), for the navigational tower;
      ii. a height of 40 feet (12.2 metres), for the store flags;
      iii. a total sign surface area of 2,920 square feet (271.3 square metres);
      iv. an individual sign (the navigational tower) exceeding 323 square feet (30 square metres);

   B. on proposed Lot 4, Block 1:
      i. a height of 35 feet (10.7 metres);
      ii. a sign surface area of 377 square feet (35 square metres);
      iii. an individual sign exceeding 323 square feet (30 square metres);

   C. on proposed Lot 1, Block 2, and Lot 9, Block 3:
      i. a height of 35 feet (10.7 metres);
      ii. a sign surface area of 377 square feet (35 square metres);
      iii. an individual sign exceeding 323 square feet (30 square metres);

   D. on proposed Lot 1, Block 3:
      i. a height of 35 feet (10.7 metres);
      ii. an individual sign exceeding 323 square feet (30 square metres);

   E. on proposed Lot 16, Block 3:
      i. a height of 35 feet (10.7 metres);
      ii. a sign surface area of 377 square feet (35 square metres);
      iii. an individual sign exceeding 323 square feet (30 square metres).

2. That the dimensional standards of the proposed "C4" Commercial Regional District of The Winnipeg Zoning By-law No. 200/2006 are varied on "the land " for the establishment of an accessory parking area, on proposed Lot 1, Block 1, to permit 50 lockable bicycle parking spaces, with the proviso that the Public Service review the use and need for bicycle space parking two years from the date that the occupancy permits are issued.

. . ./5

3. That the dimensional standards of the proposed "C4" Commercial Regional District and "CMU" Commercial Mixed Use District of The Winnipeg Zoning By-law No. 200/2006 are varied on "the land" for the establishment of proposed Lot 3, Block 1, Lots 6 to 11, Block 1; Lots 2 to 3, Block 3; and Lots 5 to 7, Block 3; which do not abut upon a public street;

subject to the following condition, which the Executive Policy Committee considers necessary to ensure compliance with criteria (a) to (d) above, namely:

1. That the order shall come into force and effect upon the coming into force and effect of the zoning by-law for the subject land under File DASZ 37/2008.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

NOTE: VARIANCE REQUESTED HAS BEEN MODIFIED

DATE OF ORDER: March 18, 2009

CERTIFIED BY:



Manager of the Decision Making Process

HOW TO APPEAL

You may appeal against either the whole of this order or part(s) of it by filing a letter of appeal.

That letter must be submitted in writing, be signed by the appellant, show the printed name of the appellant, contain the mailing address of the appellant, contain the contact telephone number of the appellant, and

(a) be addressed as set out below,

(b) be received at that office not later than 4:30 p.m. on April 6, 2009, [IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

. . ./6

(c) refer to Variance Order No. DAV 157053/2008D [c/r EP-1.1(PW 2/2008), DASZ 37/2008, DAC 1/2009], give brief reasons for the appeal and must describe whether you appeal the whole order or only part(s) of it.

Any appeal letters not containing all of the above elements will be rejected by the City Clerk as invalid appeals and will not be heard at an appeal hearing.

You can attend the appeal hearing and speak on issues raised in someone else's appeal, but the appeal committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address:	City Clerk, City of Winnipeg c/o Standing Policy Committee on Property and Development Council Building, 510 Main Street Winnipeg, Manitoba, R3B 1B9
Fax:	947-3452
Email:	clk-appeals@winnipeg.ca

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

Paul McNeil, MMM Group Limited
Frieder Aldinger, MMM Group Limited
Allan Mihalj, Senior Project Manager, MMM Group Limited
Kerra Mruss, MMM Group Limited
Misty Sklar, MMM Group Limited
Richard Tebinka, MMM Group Limited
Ronda Monsees, LVR/IKEA
David O'Sheehan, Principal Architect, Abbarch Architecture Inc.
Gina Charney
Matt Gale
Derek Murray
Michael Nozick
Douglas Pass
Ruth Shinoff
Dobryan Tracz

. . . /7

In Opposition:

Gurdeesh Bains
Lyle Bishop
Mark Cohoe, Bike to the Future (opposition to the Variance only)
Olga Eberle
Robert Froese
Graham Hnatiuk
James Kacki
Ken Klassen
Nicole Lahaie
Janice Lukes, Winnipeg Trails Association (opposition to the Variance only)
Giuliano Lupinetti
Leanne MacLean
Ingrid Richter-Mahro
Toni Maione
Lubomyr Melnyk
Kenneth Mount
Thomas Novak, Manitoba Oblate Justice & Peace Committee
Gerald A. Sandell
Krislian P. Smarma

For Information:

Goria Auriti
Michael Falk
Elizabeth and Norman Fleming
Patricia Forsythe
Robert Haegeman
Dr. Heidenreich
Dr. Stuart M. Kaye
Robert Kury
Kristy LeBaron
Garth Nemy
Wayne Nemy
Ken Reeder
J.C. Sawka
Shireen Seesahai
Ron Taylor

. . ./8

For the City:

Mr. G. Laubenstein, Chief Administrative Officer
Mr. A. Robinson, Deputy Chief Administrative Officer
Mr. P. Sheegl, Deputy Chief Administrative Officer
Mr. L. Strijack, Acting City Solicitor/Manager of Legal Services
Mr. D. Joshi, Director of Planning, Property and Development
Mr. B. Thorgrimson, Manager of Economic Development, Planning, Property and Development
Mr. K. Raban, Land Development Administrator, Planning Property and Development
Mr. J. Wintrup, Principal Planner, Planning, Property and Development

EXHIBITS/SUBMISSIONS FILED FOR DAV 157053/2008D [c/r EP-1.1(PW 2/2008), DASZ 37/2008, DAC 1/2009]

1. Application dated February 18, 2009
2. Notification of Public Hearing dated February 20, 2009
3. Manitoba Status of Titles 2085074 and 2127033
4. Letter of Authorization dated June 13, 2008, from Kenaston Intermodal Ltd. and 5083851 Manitoba Ltd. to MMM Group Limited
5. Surveyor's Building Location Certificate and sketch dated September 12, 2006
6. Confirmation from the Zoning Development Administrator that the subject property may be posted in substitution for newspaper advertising
7. Sketch of Parcel 4, Plan 8361
8. Plans (4 pages)
9. Plans, Sheets 1 and 2 inclusive, for File DAV 157053/2008D dated February 18, 2009
10. Report from the Winnipeg Public Service dated March 2, 2009
11. Inspection Report

COMPREHENSIVE LISTING OF ALL EXHIBITS/SUBMISSIONS FILED AT THE PUBLIC HEARING FOR PW 2/2008, DASZ 37/2008, DAV 157053/2008D and DAC 1/2009

A. Planning, Property and Development Department Website – The Proposal
   1. Redevelopment Detail
   2. Redevelopment Site
   3. Site Design
   4. Economic Agreement
   5. Environmental Planning
   6. Retail Commercial Lands Inventory dated February 27, 2009 prepared by MMM Group Limited

B. Planning, Property and Development Department Website – The Process
   1. Decision Process
   2. Public Open House
   3. Plan Winnipeg
   4. Subdivision Rezoning
   5. Variance

C. Planning, Property and Development Department Website – Transportation Planning
   1. Road Improvements
   2. Road Closing
   3. Private Access
   4. Transit Services
   5. Pedestrian and Bicycle Access
   6. Traffic Impact Study dated dated February 27, 2009 prepared by MMM Group Limited

D. Communication dated March 9, 2009, from Patricia Forsythe with respect to the application

E. Communication dated March 9, 2009, from Robert Haegeman with respect to the application
F. Petition requesting an adjournment of the public hearing containing the signatures of Elizabeth and Norman Fleming
G. Petition requesting an adjournment of the public hearing containing the signature of Dr. Heidenreich
H. Communication dated March 12, 2009, from Nicole Lahaie in opposition to the application
I. Communication dated March 12, 2009, from Matt Gale in support of the application
J. Communication received March 18, 2009, from Robert Froese in opposition to the application
K. Communication dated March 15, 2009, from Dr. Stuart M. Kaye requesting adjournment of the public hearing
L. Communication dated March 16, 2009, from Dobryan Tracz in support of the application
M. Communication dated March 17, 2009, from Janice Lukes, Coordinator, Winnipeg Trails Association, in opposition to the variance application (Note: pertains only to Variance DAV 157053/2008D)
N. Communication dated March 18, 2009, from James Kacki, in opposition to the application
O. Communication dated March 18, 2009, from Thomas Novak, Manitoba Oblate Justice and Peace Committee, in opposition to the application
P. Communication dated March 18, 2009, from Mark Cohoe, Bike to the Future, in opposition to the application (Note: pertains only to Variance DAV 157053/2008D)
Q. PowerPoint Presentation with respect to the application submitted by Paul McNeil, MMM Group Ltd.
R. Aerial Photographs (3) of Grant Park, Unicity and Southdale Mall submitted by Paul McNeil, MMM Group Ltd.
S. Estimate of costs regarding the southwest corner of Kenaston Boulevard and Wilkes Avenue, submitted by Barry Thorgrimson, Manager of Economic Development, Planning, Property and Development Department
T. PowerPoint Presentation in opposition to the application and questions regarding the proposal submitted by Ken Klassen
U. Development Agreement AG 47/79 between the City of Winnipeg and Roy M. Lev & Schlamp Investments dated October 25, 2009, submitted by Leanne MacLean
V. Petition with respect to the application purporting to contain the signatures of 68 area residents, submitted by Lyle Bishop and Leanne McLean
W. Site Plans (9 pages) submitted by John Wintrup, Principal Planner, Planning, Property and Development Department