Agenda – Council – October 28, 2009

Report – Executive Policy Committee – October 7, 2009

Item No. 1 Zoning Agreement Amendment – 827 Dakota Street
(St. Vital Ward)
File ZAA 4/2009

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 7, 2009, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submits the following to Council:

1. That the Zoning Agreements under File DAZ 314/85 dated April 9, 1986 and DAZ 261/87 dated December 2, 1987, be amended as follows:

   A. That Clause 3 of Zoning Agreement DAZ 314/85 and Clause 2 of Zoning Agreement DAZ 261/87 be amended to the extent that no buildings shall be constructed or located within the most easterly twenty five (25) feet of the land on Parcels A & B, Plan 22,862 and Lot 1, Plan 15,354.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreements DAZ 314/84 and DAZ 261/87as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Zoning 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 – Executive Policy Committee – October 7, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 7, 2009, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 8, 2009, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Zoning Agreement Amendment – 827 Dakota Street**
File ZAA 4/2009 [c/r DAZ 314/85]

For submission to: **Executive Policy Committee**

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

Report date: **September 9, 2009**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 8, 2009, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

1. That the Zoning Agreements under File DAZ 314/85 dated April 9, 1986 and DAZ 261/87 dated December 2, 1987, be amended as follows:

   A. That Clause 3 of Zoning Agreement DAZ 314/85 and Clause 2 of Zoning Agreement DAZ 261/87 be amended to the extent that no buildings shall be constructed or located within the most easterly twenty five (25) feet of the land on Parcels A & B, Plan 22,862 and Lot 1, Plan 15,354.

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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(s) 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 September 1, 2009.

2. The applicant has met with area residents and resolved any concerns they may have raised.

PUBLIC HEARING SUMMARY

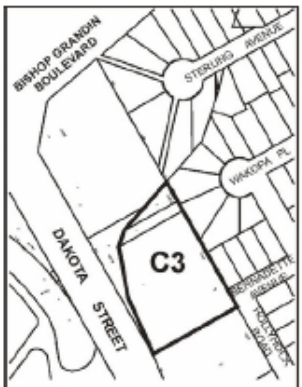
File: ZAA 4/2009 [c/r DAZ 314/85]

Before: Riel Community Committee
Councillor Vandal, Chairperson
Councillor Steeves

Public Hearing: September 8, 2009
West Committee Room
Council Building, 510 Main Street

Applicant: Colliers Pratt McGarry (W. B. (Wayne) Pratt)

Subject:



APPLICANT : COLLIERS INTERNATIONAL
FILE : ZAA 4/09
PROPOSAL : To amend Zoning Agreements DAZ 314/85 & DAZ 261/87 affecting the land shown outlined above by deleting Clause 3 & 2 and replacing it with: "no buildings shall be constructed or located within the easterly 25 feet of the land nor within 50 feet of the north limit of Meadowood Drive. **For information, phone Mr. J. Wintrup, Planner at 986-5102.**
DEMANDEUR: COLLIERS INTERNATIONAL
RÉFÉRENCE : MCZ 4/09
PROJET : Modification de la DAZ 314/85 et DAZ 261/87 touchant le bien-fonds indiqué ci-dessus par substitution à l'alinéa 3 et 2 de « aucun bâtiment ne doit être construit ou situé dans les 25 pieds à l'est du bien-fonds ni dans les 50 pieds se trouvant en deçà de la limite nord de la promenade Meadowood. » **Pour obtenir des renseignements, veuillez communiquer avec M. J. Wintrup, urbaniste, au 986-5102.**

Premises Affected: 827 Dakota Street

Exhibits Filed:

1. Application dated August 14, 2009
2. Notification of Public Hearing dated July 28, 2009
3. Manitoba Status of Title 1873238
4. Letter of authorization dated May 28, 2009 fromW.B. (Wayne) Pratt, St Vital Square Ltd to Colliers Pratt McGarry

5a. Caveat 87-46020
5b. Caveat 1409084
5c. Caveat 2593358
5d. Caveat 2720320

6. Easement Agreement
7. Plans (2 Pages)
8. Site Plans
9. Report from the Planning and Land Use Division dated September 1, 2009
10. Inspection Report

REPRESENTATIONS:

In Support:

Ian Marcil, Colliers Pratt McGarry

In Opposition

Nil

For the City:

John Wintrup, Senior Planner, Planning, Property and Development Department

Exhibit "9" referred to in File ZAA 4/2009 [c/r DAZ 314/85]

ADMINISTRATIVE REPORT

ISSUE: ZAA 4/2009 827 Dakota Street Public Hearing.

Critical Path: RIEL Community Committee as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
K. Lalor	n/a	n/a	

RECOMMENDATIONS

1. That Zoning Agreements under File DAZ 314/84 dated April 9/86 and DAZ 261/87 dated December 2/87, be amended as follows:

   A. That Clause 3 of Zoning Agreement DAZ 314/85 and Clause 2 of Zoning Agreement DAZ 261/87 be amended to the extent that no buildings shall be constructed or located within the most easterly twenty five (25) feet of the land on Parcels A & B, Plan 22,862 and Lot 1, Plan 15,354.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreements DAZ 314/84 and DAZ 261/87as approved in aforesaid Recommendation 1.

3. 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.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, a development permit can be issued to allow a 25 foot rear yard on parcels A & B Plan 22,862 and Lot 1 Plan 15,394. The proposed amendment, if approved, will permit the existing MLCC retail outlet to construct a small 2,500 sq. ft. addition at the rear of its building.

CONSULTATION

In preparing this Report there was consultation with:

N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	Kevin Lalor
Date:	September 1, 2009
File No.	ZAA 4 / 09

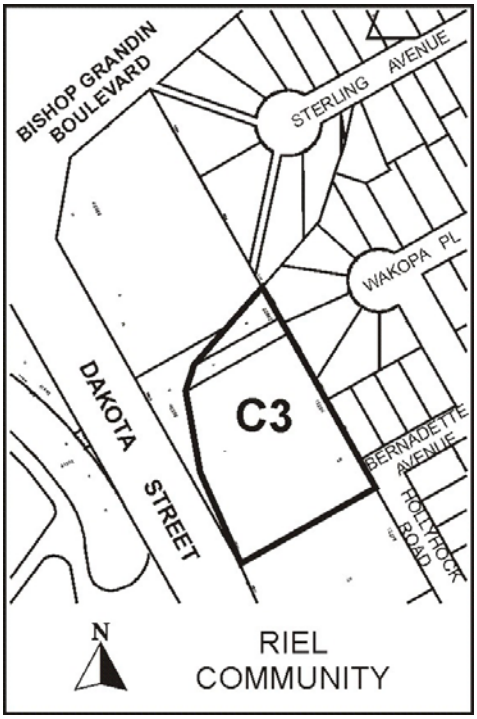
APPENDIX 'A'

Date: September 1/2009
File: ZAA 4 /2009
Related Files: DAZ 314/1985

Subject: The purpose of the subject application is to amend Clauses 3 of the original zoning agreement DAZ 314 /85 and Clause 2 of follow-up agreement DAZ 261/87, to the extent that a 25' rear yard will be permitted on parcels A & B, Plan 22,862 and Lot 1 Plan 15,394. The proposed amendment, if approved , will permit the existing MLCC retail outlet to construct a small 2500 sq. ft. addition at the rear of its building.

Location: Dakota Street

Legal Description:



Applicant: Wayne Pratt, Colliers International
Owner: St. Vital Square Ltd.
Recommendation: Recommend Approval

Site Description:



Existing Use & Zoning:
The subject parcel constitutes one part of a commercial lineal mall extending from Bishop Grandin Boulevard to Meadowood Drive. Within its specific boundaries, is the MLCC retail outlet, a Tim Horton's Restaurant and several other smaller retail businesses. It is zoned " C3" Commercial Corridor in its entirety.

Surrounding Land Uses & Zoning:
North: To the immediate north is the last phase of the commercial mall, with three major tenants and approximately 30,000 sq. ft. of overall retail floor space. The land is zoned" C3" Commercial Corridor.

East: To the east is a newer single family residential neighbourhood, of varying lot sizes, zoned " R1-M" Residential Single Family.

South: To the south is the remainder of the mall which extends through to Meadowood Drive. There is a mix of clothing stores, restaurants and other retail businesses in that portion of the complex, all zoned " C3" Commercial Corridor.

West: To the west of Dakota Street is the St. Vital Regional Mall, one of the largest and busiest malls in the City. It is zoned " C4 " Regional Commercial.

Background:
In 1974, the subject lands along the east side of Dakota Street where, in part, rezoned to an " R3B-3" high density multiple family category under By-Law 832/74. The plans at that time were to construct 8-16 story apartment complexes with upwards of six hundred dwelling units. However, the land sat vacant until the mid 1980's, when under DAZ 314/85 and follow-up application DAZ 261/87, the land between the then Homewood Street R.O.W. and Meadowood Drive, east of Dakota Street , was rezoned from multiple family to a "C2" Commercial category (later to be changed to " C3 "Commercial Corridor under the new City Zoning By-Law 200/2006). A final application DAS 14/2000, was the final phase , at which time, a portion of the City lands to the north and east of St. Vital Square were declared surplus and subdivided for both residential single family development and commercial purposes. That process resulted in the closing of a portion of the Sterling Avenue right-of-way and the Homewood Street R.O.W. and the sale of some of a portion of those lands to St. Vital Square Ltd. As a result of those transactions, an additional 30,000 sq. ft. of retail commercial floor space (i.e. Shoppers Drugs, Marks Work Warehouse) was added to the existing Mall. Under the original zoning agreements (which applied only to that portion of the Mall between the MLCC building south to Meadowood Drive) , there were a number of conditions adopted to help protect the interests of any future or existing residential development on lands adjacent to the east. For example ,the maximum building height of any new business in the proposed lineal mall could not exceed one story and no door openings providing for vehicular ingress or egress to any building constructed on the land would be permitted within the east wall of said buildings. There was also a restriction placed on the proximity of any new building to the east boundary of the property. A minimum of a 43'setback was established for the rear east yard within which only parking stalls and loading areas were allowed.

Description of the Proposed Development:
The MLCC is planning to extend their existing facility eighteen (18) feet into their rear parking area for the entire one hundred and forty foot (140') length of their operation. That will add 2520 sq. ft. to their current floor space. The proposed addition will be one story in height (11.3') and there will be no access doors or windows along the rear wall of the added floor space. A new loading door is to be established along the north wall of the building. Seventeen parking stalls are lost along the east wall but the remaining 138 stalls are still in excess of the minimum By-Law requirement of 132 spaces. Garbage containers will also be located along the north wall of the structure. Procedurally , in order to establish a new rear yard for the MLCC'S proposed addition, ranging from 25' to 34', and amendment to the original zoning agreements is required.

Analysis:
The MLCC Branch located at 827 Dakota Street is one of the busiest outlets in the City and needs to expand its current floor space. In order not to disrupt its customer parking, it is proposing to construct a 2520 sq.ft. addition at the rear of the existing building and by doing so, it would be encroaching anywhere from eight (8) to eighteen (18) feet into the east rear yard. If the proposed addition ,as submitted, were to be endorsed, the rear yard would be reduced from its current and required 43' to 25' at its most northerly point and 34' at its most southerly point. Procedurally, a zoning agreement application is therefore required to allow the expansion to take place. The Planning and Land Use Division is of the view that the amendment can be approved with little or no direct impact on the adjoining neighbourhood. It should be immediately noted that the amendment only directly applies to that specific area of the Mall where the MLCC is located, so the addition lies adjacent to the rear yards of only three, possibly four, dwellings

along Wakopa Place and Bernadette Avenue. If approved, the east wall of the proposed new addition would be eighteen feet closer to the fence along the east property line but would still be 65' from the closed residence at 58 Wakopa Place and as much as 115 ' from the residence at 62 Wakopa Place. There will be no doors or windows on the east wall of the one story addition and all loading and garbage collection will be on the north side of the building. Finally, a well maintained solid wood fence along the east property line and a dense concentration of trees on the private residential lots also both have a significant screening effect .

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

- There are no doors or windows proposed along the east side wall of the new addition.
- The proposed new addition is 25' from the adjoining residential property lines at its most northerly point of projection but that separation increases to 34' at its southern most point.
- The minimum vehicle 25' aisle -way is retained along the east property line.
- Separation space between the three adjoining dwellings at 54, 58 & 62 Wakopa Place and the proposed new wall ranges from 65 feet to 115 feet.
- That phase of the Mall north of the MLCC facility currently, for the most part, has a rear yard separation space of approximately thirty five (35) feet. At the time of the DAZ 314 /85 application by Colliers International, that area was owned by the City of Winnipeg. When it was sold to Colliers in 2000, the land was already zoned "C2" Commercial and not subject to any restrictive conditions such as the aforementioned 43' setback clause.
- There is a well maintained solid wood fence along the east property line and inside that fence on the private properties, there is a relatively heavy concentration of mature trees adding to the buffer.

Recommended Conditions of Approval:

1. That Zoning Agreements under File DAZ 314/84 dated April 9/86 and DAZ 261/87 dated December 2/87, be amended as follows:

   A. That Clause 3 of Zoning Agreement DAZ 314/85 and Clause 2 of Zoning Agreement DAZ 261/87 be amended to the extent that no buildings shall be constructed or located within the most easterly twenty five (25) feet of the land on Parcels A & B, Plan 22,862 and Lot 1, Plan 15,354.

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3. 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 # 554