Agenda - Council - December 17, 2003

Report - Standing Policy Committee on Property and Development - December 2, 2003

Item No. 10 Zoning Agreement Amendment - 5606/5610 Roblin Boulevard File ZAA 13/2003 [c/r DASZ 13/1999]

COMMUNITY COMMITTEE RECOMMENDATION:

On December 10, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, and recommends to Council that the proposed Zoning Agreement under File DASZ 13/99 be amended as follows:

1. That Recommendation "C" of the proposed Zoning Agreement under File DASZ 13/99 be replaced with the following:

   C. That the zoning of the property revert to an "R1-6" Single-family Residential District at such time as application is made for a development permit for a land use other than accessory parking for the shopping centre at 5606 Roblin Boulevard.

2. That the following Recommendations be added to the proposed Zoning Agreement under File DASZ 13/99:

   D. That the Developer be required to pay to the City ten percent (10%) cash dedication in lieu of land dedication, to be calculated on the basis of the increase in value from an "R1-6" Single-family Residential District to a "C1" Commercial District and the creation of an additional lot.

   E. That the Developer be required to pay to the City, in cash, his share of the Charleswood Transportation Levy on proposed Lot 1.

3. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to the proposed Zoning Agreement under File DASZ 13/99 as approved in Recommendation 1 above.

4. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

5. 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 - December 2, 2003

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 10, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On December 2, 2003, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 18, 2003, the Assiniboia Community Committee concurred in the administrative recommendation, as amended,

That the administrative recommendation be concurred in, with the following amendments, namely:

- Delete Recommendation "C" of the proposed Zoning Agreement under File DASZ 13/99in its entirety and replace with the following:

    C. That the zoning of the property revert to "R1-6" Single-family Residential District at such time as a development permit is applied for a land use other than accessory parking for the shopping centre at 5606 Roblin Boulevard.

- Add the following Recommendations "D" and "E" to the proposed Zoning Agreement under File DASZ 13/99:

    D. That the Developer be required to pay to the City ten percent (10%) cash dedication in lieu of land dedication, to be calculated on the basis of the increase in value from an "R1-6" Single-family Residential District to a "C1" Commercial District and the creation of an additional lot.

    E. That the Developer be required to pay to the City, in cash, his share of the Charleswood Transportation Levy on proposed Lot 1,

Report - Standing Policy Committee on Property and Development - December 2, 2003

DECISION MAKING HISTORY (continued):

and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: Zoning Agreement Amendment - 5606/5610 Roblin Boulevard
File ZAA 13/2003 [c/r DAV 326288/2003D]

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

Prepared by: Marc Pittet, Clerk,
Assiniboia Community Committee

Report date: November 27, 2003

COMMUNITY COMMITTEE RECOMMENDATION:

On November 18, 2003, the Assiniboia Community Committee concurred in the administrative recommendation, as amended, and recommends to the Standing Policy Committee on Property and Development that Zoning Agreement DASZ 13/99 be amended, as follows:

1. That Recommendation "C" of the proposed Zoning Agreement under File DASZ 13/99 be replaced with the following:

C. That the zoning of the property revert to "R1-6" Single-family Residential District at such time as a development permit is applied for for a land use other than accessory parking for the shopping centre at 5606 Roblin Boulevard.

2. That the following Recommendations be added to the proposed Zoning Agreement under File DASZ 13/99:

D. That the Developer be required to pay to the City ten percent (10%) cash dedication in lieu of land dedication, to be calculated on the basis of the increase in value from an "R1-6" Single-family Residential District to a "C1" Commercial District and the creation of an additional lot.

E. That the Developer be required to pay to the City, in cash, his share of the Charleswood Transportation Levy on proposed Lot 1.

3. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to the proposed Zoning Agreement under File DASZ 13/99 as approved in Recommendation 1 above.

4. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

5. 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.

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

The Assiniboia Community Committee provided the following supporting reason for its recommendation:

1. The Assiniboia Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated November 10, 2003.

PUBLIC HEARING SUMMARY

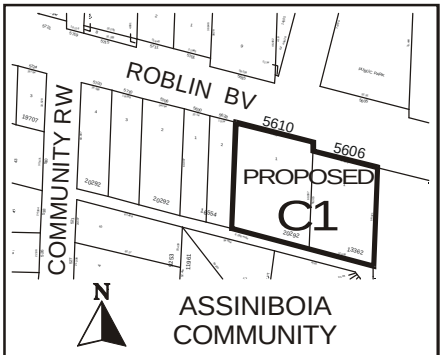
File: ZAA 13 /2003 [c/r DAV 326288/2003D]

Before: Assiniboia Community Committee
Councillor Clement, Chairperson
Councillor De Smedt
Councillor Eadie

Public Hearing: November 18, 2003
West Committee Room, Council Building,
510 Main Street

Applicant: Anatex Developments Inc. (Fred Meinzer)

Subject:



APPLICANT : ANATEX DEVELOPMENT INC.
FILE : ZAA 13/03
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above by deleting the clause which stipulates that the zoning of the property will revert back to its "R1-6" zoning classification five years from the date Council gives third reading to the rezoning by-law. **For information, phone Mr. R. Mitchell, Planner at 986-5017.**

Premises Affected: 5606/5610 Roblin Boulevard

Exhibits Filed:

1. Application dated October 16, 2003
2. Notification of Public Hearing to Applicant dated October 21, 2003
3. Manitoba Status of Titles 1109434 and 1310079
4. Surveyor's Certificate and sketch dated September 11, 1979
5. Surveyor's Building Location Certificate and Sketch dated January 6, 1987
6. Zoning Agreement DAZ 245/75A dated October 6, 1976
7. Zoning Agreement Amendment DAZ 245/75A dated January 16, 1980
8. Zoning Agreement Amendment DAZ 245/75A dated September 11, 1985
9. Plans, Sheets 1 to 3 inclusive for File ZAA 13/2003 dated May 3, 1999
10. Report from the Manager of Planning and Land Use dated November 10, 2003
11. Photographs and petition in opposition to the application purporting to contain the signatures of ten (10) area residents, submitted by Reid Dewsbury and Diane Hupalo
12. Inspection Report

REPRESENTATIONS:

In Support:

Irene Cairns
Charlene Gingras
Fred Meinzer
Walter Thiessen

In Opposition:

Reid Dewsbury
Jason Doering
Crystal Scarth-Doering
Diane Hupalo
Doug Lay
Richard Williamson

For the City:

Ross Mitchell, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Walter Thiessen, on behalf of the applicant, appeared in support of the application and indicated concurrence in the recommendations contained in the administrative report from the Manager of Planning and Land Use dated November 10, 2003. Mr. Thiessen also provided an overview of the application. Councillor Clement explained the application, quoted the Development Description from the administrative report from the Manager of Planning and Land Use dated November 10, 2003, and indicated that it was his intention to amend the recommendations in said report.

Fred Meinzer appeared in support of the application.

Jason Doering appeared in opposition to the application. Mr. Doering stated his property borders the shopping mall and that said mall is the reason his yard is often full of debris and why kids have damaged the stucco on his home. Mr. Doering also stated that he was not supportive of the application as it would likely increase business at the mall and be a further discomfort to his lifestyle. Mr. Doering further stated that he had problems with the existing business dumping "stuff" against his fence. Mr. Doering further stated that, as a new parent, his concerns are heightened and that lighting should be increased in the lot should this application proceed. Councillor Clement stated that, should this application be approved, a new fence would surround the proposed parking lot, a gate would be installed and new lighting would be established.

Doug Lay appeared in opposition to the application. Mr. Lay explained that when considering the original application in 1999, area residents signed a petition opposing the application. Mr. Lay stated that, in 1999, area residents had requested provisions to ensure that this lot would not become a "cut-through" and that area residents would be protected from both noise and dust. Councillor De Smedt stated that the plans for the lot, should the application be approved, would have to return to Community Committee for final approval before development could proceed.

Richard Williamson appeared in opposition to the application. Mr. Williamson stated that he, like Mr. Doering, lives adjacent to the mall. Mr. Williamson reiterated many of the concerns and comments raised by Mr. Doering. Mr. Williamson indicated support for a reversionary clause being included and that the lot should be fenced and landscaped on all three sides.

Diane Hupelo, accompanied by Reed Dewsbury, appeared in opposition to the application and submitted photographs and a petition in opposition to the application purporting to contain the signatures of ten (10) area residents (Exhibit 12). Mr. Dewsbury stated that drainage of the property should be addressed. The Senior Planner stated that the installation of a catch basin

would help with drainage and that the proposed planting beds along the edges of the property could be beveled to assist drainage.

Mr. Thiessen returned in rebuttal: He explained that that the application is being made to improve the existing parking situation to accommodate some overflow parking during peak periods. Mr. Thiessen stated that Mr. Meinzer would do his best to accommodate the concerns of the area residents.

Exhibit “10” referred to in File ZAA 13/2003 [c/r DAV 326288/2003D]

In reply please refer to / Référence à rappeler:

Ross Mitchell
(204) 986-5017
Fax / Téléc. : (204) 986-3684

File No. ZAA 13/03
Our c/f CP 500 (.633)

November 10, 2003

Ms. Josie Marques, Community Clerk
Assiniboia Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

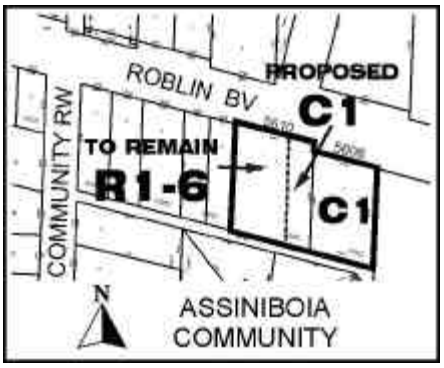
Dear Ms. Marques:

ZONING AGREEMENT AMENDMENT
5606/5610 Roblin Boulevard
Assiniboia Community

File No. ZAA 13/03

An application has been received from Anatex Development Inc. (Fred Meinzer), to amend the proposed Zoning Agreement affecting the property shown below as “Proposed C1”, by deleting Condition “C” which states: “That the zoning of the property will revert back to its “R1-6” zoning classification five (5) years from the date Council gives third reading to the rezoning by-law.”

RELATED FILES: 03-326288D – Zoning variance to permit no front yard instead of 53 feet.



SITE DESCRIPTION:

Dimensions: - #5606 Roblin (shopping centre) – 124.3 feet fronting Roblin by 184.8 ft.
- #5610 Roblin (house) – 170.4 feet fronting Roblin by 200 ft. deep

Site Area: - #5606 Roblin, 22,970.6 square feet (existing "C1")
- #5610 Roblin, 30,240 square feet (existing "R1-6")

DEVELOPMENT DESCRIPTION:

The applicant owns the Roblin Plaza strip mall at 5606 Roblin (Lot 1, Plan 13362), and the adjacent single-family houses to the west at 5610, 5628 and 5630 Roblin. The L-shaped shopping centre has a gross floor area of about 22,970 square feet and contains a food store, meat store, doctor's office, hair salon, and computer repair shop. The development currently provides parking for 20 customers with access off Roblin, plus approximately 10 stalls for staff located at the back of the mall with access from the public lane. The adjacent property at 5610 Roblin has a lot area of 30,240 square feet, and contains a bungalow with a floor area of 924 square feet.

Under DASZ 13/99, the applicant applied to expand the parking area by subdividing and rezoning 55 feet of the residential property at 5610 Roblin. The application was approved with a Zoning Agreement limiting the use of the land to accessory parking for the shopping centre. In addition, the Community Committee placed a condition in the Zoning Agreement that the zoning revert from "C1" Commercial back to "R1-6" Residential on November 17, 2004. The subject application would delete this condition. The rezoning and subdivision under DASZ 13/99 has not been enacted on account of the 5-year limit on the parking lot. The current application would remove this condition, allowing the parking lot to remain in perpetuity. If this application is approved, the applicant will proceed to register the Zoning Agreement under DASZ 13/99, as amended, as a caveat of first charge against the title of the property. It is noted that, in addition to the subject ZAA, the applicant has filed a request to extend the 2-year time limit on the approval under DASZ 13/99. This request-for-extension will go forward to the Planning, Property and Development Department if the Assiniboia Community Committee recommends the subject application for approval.

The applicant has filed a site plan showing the following:

- Paved parking for 17 vehicles, with new catch basin for surface drainage;
- access restricted to the existing parking lot at 5606 Roblin (no direct access to Roblin or the public lane at the rear of the development);
- 10-foot landscaped strip against the applicant's residential property at 5610 Roblin;
- 15-foot strip of land dedicated to the City for the future widening of Roblin;
- 4.5 foot-high ornamental, wooden fence along the west limit of the parking lot expansion.

The related Zoning Variance application would permit a front yard of zero-feet instead of 53.75 feet, which is the front yard provided by the applicant's house at 5610 Roblin. The Division is supporting the zoning variance.

ADMINISTRATIVE COMMENTS:

The Urban Planning Branch supports the subject application for the following reasons.

- The proposed development is appropriately located on Roblin Boulevard, a Regional Street, and will relieve parking congestion at the shopping centre;
- The proposed development has no direct impact on adjacent housing except for the house owned by the applicant at 5610 Roblin, which will be separated from the parking lot by a 29-foot east side yard plus a 10-foot landscaped and fenced buffer strip.
- The parking lot will provided with a catch basin for storm drainage and will be paved, fenced and landscaped in accordance with by-law requirements.

At the original public hearing under DASZ 13/99, residents from 5 area households registered in opposition. The sole basis for their opposition was that the site plan first proposed by the applicant showed access from the proposed parking lot to the public lane. As a result, the approval for the subdivision and rezoning included a prohibition against access to the public lane from the expanded parking lot. This restriction remains in place and is not effected by the current application.

RECOMMENDATION:

I. That Zoning Agreement DASZ 13/99 be amended by deleting Clause "C" in its entirety.

II. That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 13/99 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 be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

C. Knoll
Manager of Planning and Land Use

_____

Per: Ross Mitchell, Senior Planner
(City Centre and Assiniboia Communities)
986-5017

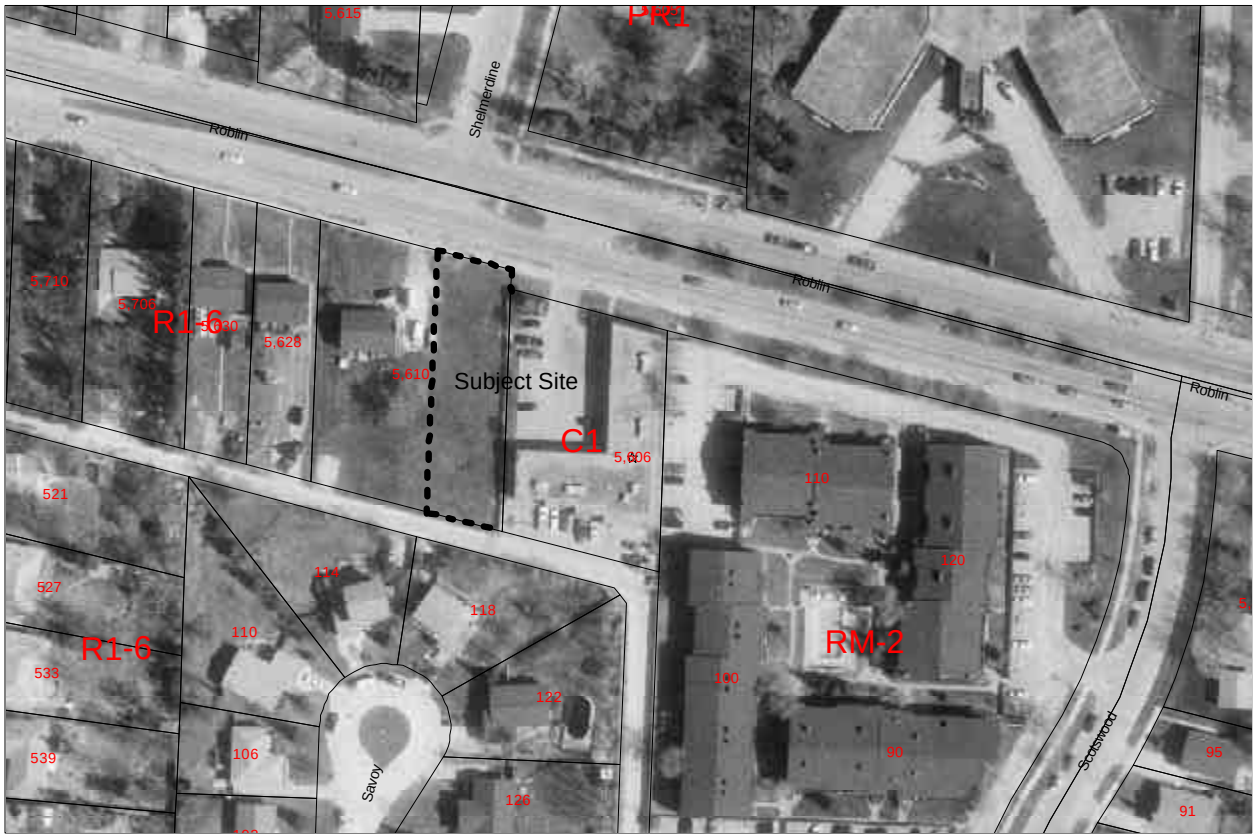


Figure 1: Aerial View of Site