Minute No. 77
Report - Standing Policy Committee on Property and Development - December 2, 2003

Item No. 1 Zoning Agreement Amendment - 875 Dakota Street
File ZAA 12/2003 [c/r DAZ 205/2000]

COUNCIL DECISION:

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

1. That Zoning Agreement File DAZ 205/2000 (By-law No. 7667/2000), dated August 19, 2000, be amended by amending Clause 2 to add the following as permitted uses:

   A. Barbershop, Beauty Salon or similar Grooming Service

   B. Clothing, including shoes and other wearing apparel and accessories; alteration, repair and sales

   C. Dressmaker, Furrier, Tailor

   D. Jeweller, Watchmaker including custom manufacture

   E. Florist

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement File DAZ 205/2000 (By-law No. 7667/2000), dated August 19, 2000, as approved in 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 - December 2, 2003

DECISION MAKING HISTORY:

Moved by Councillor Vandal,

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

Carried

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 Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 4, 2003, the Riel Community Committee concurred in the administrative recommendation, and submitted its recommendation to the Standing Policy Committee on Property and Development.

Re: Zoning Agreement Amendment - 875 Dakota Street
File ZAA 12/2003 [c/r DAZ 205/2000 and DAV 331505/2003D]

For submission to: Standing Policy Committee on Property and Development

Prepared by: Marc Pittet, Clerk, Riel Community Committee

Report date: November 13, 2003

COMMUNITY COMMITTEE RECOMMENDATION:

On November 4, 2003, the Riel Community Committee concurred in the administrative recommendation and recommended to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement DAZ 205/2000 (By-law No. 7667/2000), dated August 19, 2000, be amended by amending Clause 2 to add the following as permitted uses:

   A. Barbershop, Beauty Salon or similar Grooming Service
   B. Clothing, including shoes & other wearing apparel & accessories; alteration, repair & sales
   C. Dressmaker, Furrier, Tailor
   D. Jeweller, Watchmaker including custom manufacture
   E. Florist.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 205/2000 (By-law No. 7667/2000), dated August 19, 2000, as approved in aforesaid recommendation numbered 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 Manager of Planning and Land Use dated October 28, 2003.

PUBLIC HEARING SUMMARY

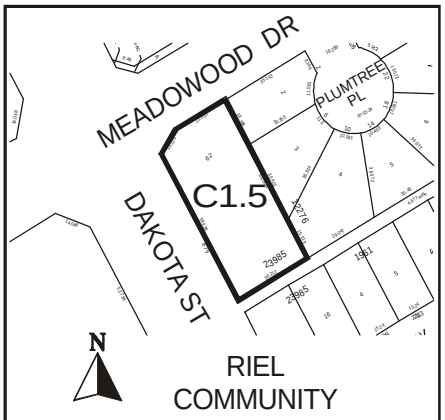
File: ZAA 12/2003 [c/r DAZ 205/2000 and DAV 331505/2003D]

Before: Riel Community Committee
Councillor Steeves, Chairperson
Councillor Vandal

Public Hearing: November 4, 2003
Community Committee Chamber, 604 St. Mary's Road

Applicant: Alain J. Hogue & Associates

Subject:



APPLICANT: ALAIN J. HOGUE & ASSOCIATES
FILE: ZAA 12/03
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above to permit an expanded list of commercial uses. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : ALAIN J. HOGUE & ASSOCIÉS
RÉFÉRENCE : ZAA 12/03
PROJET : Modification de la convention de zonage touchant le terrain indiqué ci-dessus afin de permettre l'agrandissement de la liste des usages commerciaux. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 875 Dakota Street

Exhibits Filed: 1.

1. Application dated October 7, 2003
2. Notification of Public Hearing to Applicant dated October 7, 2003
3. Manitoba Status of Title 1837102
4. Zoning Agreement DAZ 205/2000
5. Amendment to Zoning Agreement DAZ 205/2000 [c/r ZAA 6/2001]
6. Variance Appeal Order DAV 908A/2000C
7. Variance Order DAV 908/2000C
8. Variance Appeal Order DAV 136/2001D
9. Plans (3 pages)
10. Report from the Manager of Planning and Land Use dated October 28, 2003
11. Inspection Report
12. Communication dated November 3, 2003, from Harry Humby in opposition to the application
13. Presentation and supporting documentation submitted at the Public Hearing by Joseph and Harinakshi Rebello in opposition to the application.

REPRESENTATIONS:

In Support:

Traci Carver
Michelle Constant
Judy Edwards
Alain Hogue
Rennie Zegalski

In Opposition:

Archie and Cathy Campbell
Ted Finlay
Glen Hewitt
Harry Humby
Otto So
Joseph and Harinakshi Rebello

For the City:

Kevin Lalor, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Alain Hogue, Alain J. Hogue and Associates, appeared in support of the application and provided a brief overview of the application. Mr. Hogue indicated concurrence in the recommendations contained in the administrative report from the Manager of Planning and Land Use dated October 28, 2003. Mr. Hogue explained that the current zoning of the property has limited its marketability and that the proposed zoning amendment is required to make the development viable. He stated that Michel Audette of the Caisse Populaire, the major tenant of the development, was supportive of the application.

Otto So appeared in opposition to the application. Mr. So also spoke in opposition to the Variance application, in particular to the planting of Nanny Berry in lieu of Colorado Spruce trees and the proposed decrease in on-site parking. Mr. So refuted Mr. Hogue's claim that he is unable to attract tenants due to the limited usage of the property. Mr. So stated that Mr. Hogue should have investigated the viability of the property prior to its development. Mr. So also stated that the establishment of a hairdresser shop in the development would increase traffic, which is already a problem due to the drive-thru automated teller machine at the bank. Mr. So proposed that each prospective tenant should apply for a zoning amendment on an individual basis and that Mr. Hogue's application should be rejected.

Joseph and Harinakshi Rebello appeared in opposition to the application. Mr. Rebello spoke of the Variance application and stated that Mr. Hogue was making an application to plant Nanny Berry trees after already having planted them. Mr. and Mrs. Rebello submitted supporting documentation and copies of their presentations, filed as Exhibit 13.

Mr. Rebello stated that they have been involved in Public Hearings associated with the subject property since May 2000 and that, against the objections of area residents, the Riel Community Committee approved the development in question. Mr. Rebello also stated that the area residents wanted the development to remain non-retail. Mr. Rebello read into the record a communication from Harry Humby opposing the application, filed as Exhibit 12.

Mr. Rebello asked the following questions:

- Should a hairdresser be established, how many employees would there be?
- How many chairs will said hairdresser establish?
- What kind of chemicals, dyes, peroxides, etc… will be used?

Archie Campbell appeared in opposition to the application. Mr. Campbell stated that the area residents had always attested that the lot was not suitable for this type of development and that the developer would eventually need to return to Community Committee for further changes. Mr. Campbell further stated that the space in question is not suitable for a beauty shop. Mr. Campbell also stated that Foyer Valade had recently used the facility for a fundraiser and, as a result, all the neighbouring streets were blocked. If the new tenants have many clients, this will

create more traffic and negatively impact an already exasperated traffic situation in the area. Mr. Campbell further stated that if the developer had worked with area residents in the first place and acted in good faith since the initial application, area residents would likely not have appeared in opposition to every application he has made.

Ted Finlay, Riel Resident's Advisory Group, appeared in opposition to the application and indicated that he had two complaints with respect to this application.

- The initial application was not for full banking services; the Caisse Populaire should have moved its investment-banking branch into the empty space in question.

- He stated his opposition to the planting of Nanny Berry trees.

Glen Hewitt appeared in opposition to the application. Mr. Hewitt indicated that the applicant was always aware of the irregular shape of the lot in question and should have applied for less parking stalls as part of his original application. Mr. Hewitt asked if the applicant was making these new applications due to the Ombudsman's current investigation of the property. Mr. Hewitt stated that the applicant has not been living up to previous agreements. Mr. Hewitt also stated that the main reason he was opposing the application was that the development would become more retail oriented as opposed to a professional building and that, with a proposed retail development, the parking on the site should be increased, not decreased.

Alain Hogue returned in rebuttal and discussed various concerns relative to the Variance application not germane to the zoning agreement amendment.

Exhibit "10" referred to in File ZAA 12/2003

In reply please refer to / Référence à rappeler :

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

File No. ZAA 12 /03 October 28/03
Our c/f CP 500 (. 554)

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

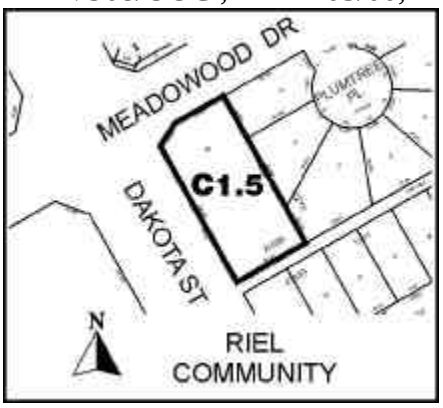
Dear: Mr. Pittet

ZONING AGREEMENT AMENDMENT
Location: 875 Dakota St.
Riel Community

File No. ZAA 12/03

An application has been received from Alain Hogue & Associates, to amend the Zoning Agreement affecting the property shown below by: Amending Clause # 2 of DAZ 205/2000 to add the following as permitted uses; 1) Barbershop, Beauty Salon or other Grooming Service 2) Clothing & other Wearing Apparel & Accessories, including alterations, repair and sales 3) Dress Maker, Furrier or Tailor 4) Jeweller or Watch Maker, including custom manufacture 5) Florist 6) Dispatch for Courier/Delivery Express Service, Cleaning Service, Key& Lock Service, Taxi or similar service excluding terminal as a conditional use.

RELATED FILES:
DAV908/OOC , DAZ 205/00, DAV 136/01D, ZAA 6/01



SITE DESCRIPTION:
Dimensions:
The subject lot has 100 feet of frontage along Meadowood Drive and 200 feet of frontage along Dakota St.

Site Area:
The overall site area is approximately ½ acre in size.

Existing Land Use and Zoning:
The existing building which has an area of 8058 sq. ft. currently has two main tenants, a Credit Union and the constituency offices of two local MLA'S. There would appear to be close to 2500 sq. ft. of empty space remaining in the north wing of the building. There is also an ATM Drive – Thru along the west wall of the Credit Union.

DEVELOPMENT DESCRIPTION:
The applicant proposes broadening the list of permitted uses from the current four (offices, medical/ dental counselling or therapeutic centres, banks & medical or dental labs) to a total of ten, one of which, courier /delivery services would also require conditional use approval.

ADMINISTRATIVE COMMENTS:
The applicant is of the view that the existing agreement is so restrictive that it is very difficult find tenants to fill his remaining floor space. It was everyone's hope at the outset of this prolonged process that the applicant would have success in finding tenants fully which satisfy the requirements of By-Law 7667/00. To some extent that has occurred with the successful establishment of the Credit Union as the anchor tenant and the recent occupancy of some of the remaining space for office use. However as indicated earlier, that still leaves approximately 2500 sq. ft. of residual commercial space in the north half of the building empty and it has been empty for several years. It is the view of the Urban & Neighbourhood Planning Branch that five of the six proposed new uses are probably unlikely to have any significant detrimental effect on neighbouring property owners. Florists, jewellers, beauty salons and even clothing retail outlets at such a small scale and governed by restrictive hours of operation, are not likely to pose a problem for the neighbourhood. However, dispatch /courier /delivery / taxi services etc. are not, in our view, an appropriate use at this location. Those types of uses generate activity and a level of truck traffic which are not compatible with such a small commercial site with limited access. It is therefore recommended that the requested amendment to Clause # 2 be fully approved with the exception of dispatch for courier/delivery express service, cleaning service, key-lock service , taxi or similar service, and terminals as a conditional use.

RECOMMENDATION:

I. That Zoning Agreement DAZ 205/00(By-Law # 7667/00), dated August 19th/00, be amended by amending Clause# 2 to add the following as permitted uses: 1) Barbershop, Beauty Salon or similar Grooming Service 2) Clothing, including shoes& other wearing apparel & accessories; alteration , repair & sales 3)Dressmaker, Furrier, Tailor 4)Jeweller, Watchmaker including custom manufacture 5)Florist.

II. That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 205/00(By-Law # 7667/00), dated August 19th/00, 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.

Final

Yours truly,

C. Knoll
Manager of Planning and Land Use

Kevin Lalor

Per: Acting Coordinator, Urban & Neighbourhood Planning
986-5069

/jc