Agenda - Council - January 28, 2004

Report - Standing Policy Committee on Property and Development - January 16, 2004

Item No. 8 Zoning Agreement Amendment - 3700 Portage Avenue
File ZAA 17/2003 (DAZ 272/86)

STANDING COMMITTEE RECOMMENDATION:

On January 21, 2004, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submits the following to Council:

1. That Zoning Agreement DAZ 272/86 (By-law No. 4576/87) be amended as follows:

   A. By amending clause 1 to apply to the subject property being Lot 1, Plan 22399
   B. By deleting clause 2
   C. By deleting clause 11
   D. By renumbering the Zoning Agreement clauses as required.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 272/86 (By-law No. 4576/87) dated March 4, 1987, 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.

5. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report - Standing Policy Committee on Property and Development - January 16, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 21, 2004, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 16, 2004, 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 December 16, 2003, the Assiniboia Community Committee concurred in the administrative recommendation, as amended, namely:

- That recommendations 1.C. and 1D., namely:

    C. By amending Clause 6 to read: That no buildings, permanent structures or underground structures shall be constructed within a distance of 11.75 metres (38.6 feet) from the west limit of the land.
    D. By amending Clause 7 by attaching the revised Schedule “B” (copy attached as Schedule “A”)

    be deleted in their entirety and the remaining recommendations renumbered accordingly,

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

RE: **Zoning Agreement Amendment - 3700 Portage Avenue**
File ZAA 17/2003]

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

Prepared by: **Diane Timmins, Clerk,**
Assiniboia Community Committee

Report date: **January 5, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On December 16, 2003, the Assiniboia Community Committee concurred in the administrative recommendation, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement DAZ 272/1986 (By-Law No. 4576/87) be amended as follows:

   A. By amending clause 1 to apply to the subject property being Lot 1, Plan 22399
   B. By deleting clause 2
   ~~***C. By amending Clause #6 to read: That no buildings, permanent structures or underground structures shall be constructed within a distance of 11.75 metres (38.6 feet) from the west limit of the land.***~~
   ~~***D. By amending Clause #7 by attaching the revised Schedule "B" (copy attached as Schedule "A" to this report).***~~
   C. By deleting clause 11
   D. By renumbering the Zoning Agreement clauses as required.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 272/86 (By-Law No. 4576/87) dated March 4, 1987, 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.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

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

1. The Assiniboia Community Committee believes the proposed amendments to the Zoning Agreement will allow natural redevelopment of the site at the appropriate time.

PUBLIC HEARING SUMMARY

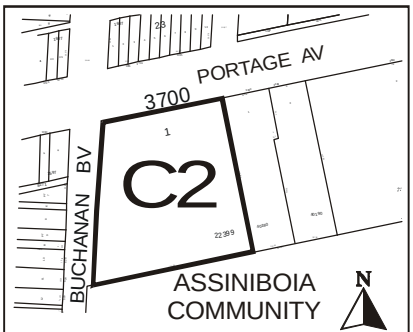
File: ZAA 17 /2003

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

Public Hearing: December 16, 2003
West Committee Room,
Council Building, 510 Main Street

Applicant: Stevenson Advisors Ltd.

Subject:



APPLICANT : STEVENSON ADVISORS LTD.
FILE : ZAA 17/03
PROPOSAL : To delete the Zoning Agreement affecting the land shown outlined above. **For information, phone Mr. R. Mitchell, Planner at 986-5017.**

Premises Affected: 3700 Portage Avenue

Exhibits Filed: 1. Application dated November 13, 2003

2. Notification of Public Hearing to Applicant dated November 14, 2003
3. Manitoba Status of Title 1742987
4. Letter of authorization dated October 27, 2003 from Dennis R. Tole and Mark J. Chipman to Royal LePage Advisors
5. Zoning Development Information
6. Aerial Site Plan
7. Site Plan
8. Report from the Manager of Planning and Land Use dated December 4, 2003
9. Inspection Report
10. Plan and text, including (6) Photographs submitted by Patrick Hamilton, Stevenson Advisors at the public hearing showing an orientation as to where the pictures were taken from and the surrounding conditions of the subject property
11. Map of the area submitted by Patrick Hamilton, Stevenson Advisors, at the public hearing

REPRESENTATIONS:

In Support:
Patrick Hamilton, Stevenson Advisors

In Opposition:
Nil

For the City:

Roy Hartmann, Traffic Assessment Engineer, Public Works Department
Ross Mitchell, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Patrick Hamilton, on behalf of Stevenson Advisors, appeared in support of the application. He provided Committee with background history surrounding the subject land and drew Committee's attention to the restrictive land use conditions of the current Zoning Agreement which have been in place since 1986. Committee was advised the Chipman family, the current property owners, initiated this application in order to make the subject property more marketable and improve its re-development potential. A couple of expressions of interest have been submitted to the current owners which have resulted in Offers to Purchase, but which have been frustrated primarily due to the restrictive conditions of the Zoning Agreement.

Mr. Hamilton stated concurrence in the recommendations outlined in the report of the Manager of Planning and Land Use with the exception of the following:

1. The applicant would like clause 6 of the Zoning Agreement deleted. In this connection, he stated the fifty foot (50 ft) building restriction on the land is to accommodate the future widening of Buchanan Boulevard, which has not happened and may not ever happen in the future.
2. The applicant would like clause 7 deleted, or in the alternative, be able to keep the land required for the possible corner-cut until such time as the City exercises its rights to acquire the property for the corner-cut. Mr. Hamilton suggested that, as a compromise, the Community Committee could consider maintaining the clause relative to the corner-cut and deleting the clause for the 50 ft. setback even though the Administration has indicated it is prepared to recommend reducing the setback from 50 to 38.7 feet.

Mr. Hamilton submitted a plan with text, and six (6) photographs showing an orientation as to where the pictures were taken from and the surrounding conditions of the subject property, filed as Exhibit 10. Mr. Hamilton stated the belief there is no need to widen Buchanan Boulevard to the extent that is envisaged under the Zoning Agreement given that other streets such as Stewart, St. Charles and Gagnon Streets, in the immediate vicinity go northerly up to Portage Avenue, and in this connection, submitted a map of the area, filed as Exhibit 11. In answer to Committee's question as to what the setback would be if clause 6 relative to the setback was deleted, the Senior Planner responded there would be no side yard requirement. In response to Committee's question as to why the possible corner-cut is required, the Traffic Assessment Engineer responded the corner-cut was required for two reasons:

A. It will allow for the improvement of the overall operating conditions of the intersection and provide more flexibility in the future.

B. That although the potential new commercial tenant/owner is not known, it could generate more traffic than the current car dealership.

In answer to Committee's question as to why the City should retain the 38.7 ft. setback, the Traffic Assessment Engineer responded the setback should be retained in anticipation of having to construct future improvements in the street to accommodate either additional traffic from whatever development takes place on the site, or to accommodate general improvements to improve traffic operating conditions of the intersection as a whole.

Exhibit “8” referred to in File ZAA 17/2003

In reply please refer to / Référence à rappeler : **Ross Mitchell**
(204) 986-5017
Fax / Téléc. : (204) 986-3684

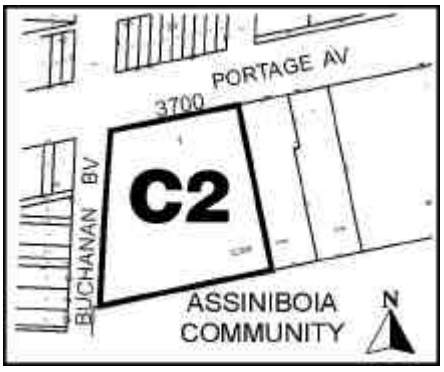
File No. ZAA 17/03 December 4, 2003
Our c/f CP 500 (211)

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

Dear : Mr. Pittet

ZONING AGREEMENT AMENDMENT
Location : 3700 Portage, south side east of Buchanan Boulevard
Assiniboia Community
File No. ZAA 17/03

An application has been received from Stevenson Advisors Ltd. (Sharon Martinenko) to delete the Zoning Agreement affecting the property.



RELATED FILES: None

SITE DESCRIPTION:

Dimensions: Approximately 306 feet of Portage frontage by a depth of 396 feet.

Site Area: Approximately 3.3 acres, 142,398 square feet.

Existing Land Use and Zoning: Car Dealership zoned "C2" Commercial District.

DEVELOPMENT DESCRIPTION:

The site is located at the southeast corner of Buchanan and Portage. The site was rezoned under DAZ 272A/86. Included within the application area under DAZ 272A/86 was approximately 13 acres of commercial development that included, from east to west, the Stadium Ford dealership, the original Beaver Lumber store (McDiarmid Lumber), the original Great Plains Honda and Hyundai dealerships, and the subject site that was developed for Woodhaven Toyota. The entire site was subdivided from the Glendale Golf Course and required a Plan Winnipeg amendment to enable the current development. The applicant wishes to remove the Zoning Agreement in order to facilitate the sale of the property.

ADMINISTRATIVE COMMENTS:

The following paragraphs discuss the clauses contained in the Zoning Agreement that limit land use and development, with a recommendation as to whether or not they should be deleted as requested by the applicant:

Clause #1: *Describes affected land*. Clause must be amended to apply to subject site if Zoning Agreement is to remain.

Clause #2: *Limits gross floor area to 100,000 square feet*. This clause applied to the entire 13-acre site, and effectively limited building coverage to about 18%. The footprint of the subject building is in the order of 29,000 square feet, while the subject site area is approximately 142,400 square feet. This represents a building coverage of about 20%. The "C2" district regulations do not restrict building coverage. Instead, there is a maximum Floor Area Ratio (F.A.R.) of 3.0. That is, the gross floor area of buildings cannot exceed three-times lot area. Site coverage and F.A.R. limits are rarely reached in suburban areas on account of parking and yard requirements. The Division is of the opinion that this clause is not required, and its deletion from the Zoning Agreement is recommended.

Clause #3: *Ten-foot (10') landscaped strip along Portage.* This clause is appropriate and the Division would recommend that it be retained.

Clause #4: *Five-foot (5') landscaped strip along Buchanan.* This clause is appropriate and the Division would recommend that it be retained.

Clause #5: *Buchanan access limited to one bi-directional approach*. Buchanan is a residential street, and the Division is of the opinion that the site is adequately served by one bi-directional approach.

Clause #6: *Building restriction within 50 feet of Buchanan to enable possible future Buchanan widening.* The Public Works Department has suggested that this setback line could be reduced to 11.75 metres (38.5 feet) in accordance with Schedule "A" attached.

Clause #7: *Building restriction at Buchanan and Portage to enable possible future corner cut*. The Public Works Department requests that this clause be retained.

Clause #8: *Garbage bins enclosed by a 6' fence.* The Division would recommend that this clause be retained.

Clause #9: *Plan Approval Clause.* The Division would recommend that this standard clause be retained.

Clause #10: *Fencing, landscaping and garbage enclosures to be completed within 3 months from date of occupancy unless the time is extended with Community Committee approval.* The Division would recommend that this clause be retained.

Clause #11: *Payment of Park Dedication.* This clause is no longer required, and can be removed.

Clause #12: *Standard clause to preserve the City's authority under The Charter*. This clause must be retained if the Zoning Agreement is not discharged.

Clause #13: *Standard clause defining Lot Width/Minimum Lot Width.* This clause should be retained if the Zoning Agreement is not discharged.

RECOMMENDATION:

I. That Zoning Agreement DAZ 272/86 (By-Law # 4576/87) be amended as follows:

a) By amending Clause #1 to apply to the subject property being Lot 1, Plan 22399.
b) By deleting Clause #2 of the agreement.
c) By amending Clause #6 to read: That no buildings, permanent structures or underground structures shall be constructed within a distance of 11.75 metres (38.6 feet) from the west limit of the land.
d) By amending Clause #7 by attaching the revised Schedule "B" (copy attached as Schedule "A" to this report).
e) By deleting Clause #11.
f) By renumbering the Zoning Agreement clauses as required.

II. That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 272/86 (By-Law#4576/87) dated March 4, 1987, as approved in aforesaid Clause 1.

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

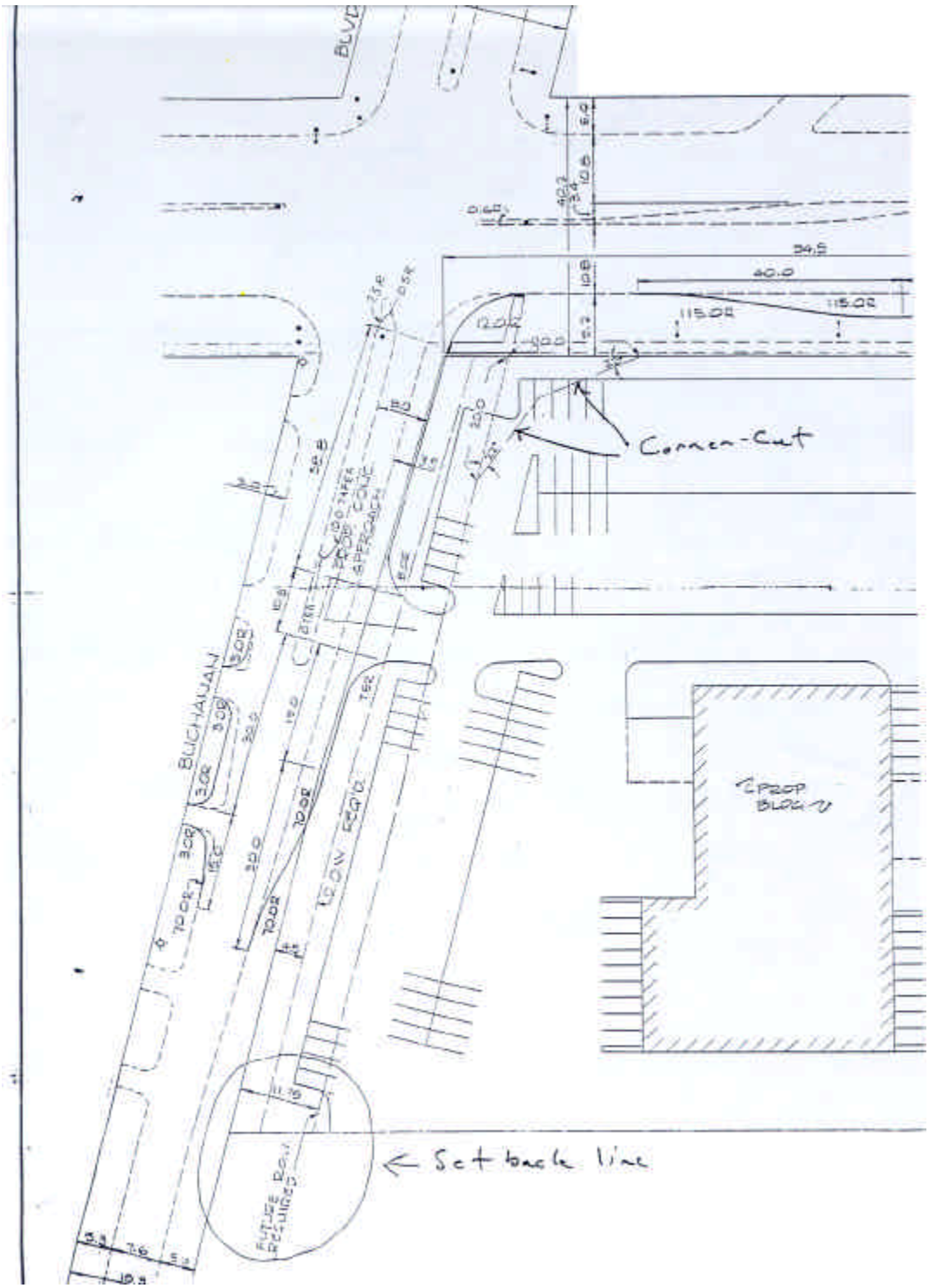
IV. That the City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Yours truly,

C. Knoll
Manager of Planning and Land Use

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


Portage
Portage
Portage
Buchanan
Buchanan
C2
C2
3,680
3,690
528
524
520
516



Schedule "A" to the report to the Assiniboia Community Committee for File No. ZAA 17/03, dated December 4, 2003.