Minute No. 168
Report - Standing Policy Committee on Property and Development - January 16, 2004

Item No. 7 Zoning Agreement Amendment - 2654/2660 Pembina Highway
File ZAA 14/2003 [DAZ 238/84]

COUNCIL DECISION:

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

1. That Zoning Agreement DAZ 238/84 (By-law No. 3854/84) be amended by deleting Clause 2 of the agreement, namely:

   "2. No building, structure or land shall be used and no building shall be erected or altered or enlarged on the land for any use except: 1) automobile sales area and showroom, open or enclosed, and incidental pre-servicing and warranty repairs for automobiles sold on the premises; 2) signs as accessory to the use in (1) above; 3) accessory uses."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 238/84 (By-law No. 3854/84) dated November 8, 1984, as approved in Clause 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:

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

COMMUNITY COMMITTEE RECOMMENDATION:

On December 1, 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 - 1254/2660 Pembina Highway
File ZAA 14/2003

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

Prepared by: Marc Pittet, Clerk, Riel Community Committee

Report date: December 3, 2003

COMMUNITY COMMITTEE RECOMMENDATION:

On December 1, 2003, the Riel Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement DAZ 238/84 (By-law No. 3854/84) be amended by deleting Clause 2 of the agreement, namely:

   "2. No building, structure or land shall be used and no building shall be erected or altered or enlarged on the land for any use except: 1) automobile sales area and showroom, open or enclosed, and incidental pre-servicing and warranty repairs for automobiles sold on the premises; 2) signs as accessory to the use in (1) above; 3) accessory uses."

2. That the City Solicitor / Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 238/84 (By-law No. 3854/84) dated November 8, 1984, 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.

The Riel Community Committee provided the following supporting reasons for its recommendation:

1. The proposed zoning agreement amendment is consistent with contiguous property on Pembina Highway.

2. The Riel Community Committee agreed with the administrative comments contained in the report of the Manager of Planning and Land Use dated November 24, 2003.

PUBLIC HEARING SUMMARY

File: ZAA 14/2003

Before: Riel Community Committee
Councillor Angus, Chairperson
Councillor Vandal

Public Hearing: December 1, 2003
St. Norbert Community Centre, 3450 Pembina Highway

Applicant: Frontier Toyota (Roger Tychonick)

Subject:



APPLICANT: FRONTIER TOYOTA LTD.
FILE: ZAA 14/03
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above by deleting the following clauses:
1) no building , structure or land shall be used and no building or structure shall be erected, altered or enlarged on the land for any use except
(i) automobile sales area and showroom, open or enclosed, and incidental pre-servicing and warranty repairs for automobiles sold on the premises;
(ii) signs as accessory to the use in (i); and (iii) accessory uses,
2) that no automobile body work and no storage of damaged or derelict vehicles shall be permitted on the land.
For information, phone Mr. K. Lalor, Planner at 986-5069.
DEMANDEUR : FRONTIER TOYOTA LTD.
RÉFÉRENCE : MCZ 14/03
PROJET : Projet de modification de la convention de zonage touchant le bien-fonds indiqué ci-dessus et visant à abroger les dispositions suivantes :1)Il est interdit d'utiliser des bâtiments, des structures ou le bien-fonds ainsi que d'ériger, de modifier ou d'agrandir des bâtiments ou des structures sur le bien-fonds à toute fin autre :
(i)qu'à titre de surface de vente et de salle de montre d'automobiles, intérieure ou extérieure, et de surface de service avant-vente et de réparation sur garantie des automobiles vendues sur les lieux,
(ii)que la pose d'enseignes relatives aux usages indiqués en (i), (iii) que les usages connexes;
2) Il est interdit de procéder à des travaux de réparation de carrosserie d'automobiles et d'entreposer des véhicules endommagés ou des carcasses de voiture sur le bien-fonds.
Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.

Premises Affected: 2654/2660 Pembina Highway

Exhibits Filed:

1. Application dated October 29, 2003
2. Notification of Public Hearing to Applicant dated October 31, 2003
3. Manitoba Status of Title 1153253
4. Surveyor's Building Location Certificate and sketch dated April 4, 1993
5. Zoning Agreement DAZ 238/84
6. Zoning Agreement DAZ 292/75
7. Report from the Manager of Planning and Land Use dated November 24, 2003
8. Inspection Report

REPRESENTATIONS:

In Support:
Ken Roseman

In Opposition:
Nil

For the City:
Kevin Lalor, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING

Ken Roseman appeared in support of the application and provided a brief overview of said application.

Exhibit "7" referred to in File ZAA 14/2003

In reply please refer to / Référence à rappeler :

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

File No. ZAA 14/03
Our c/f CP 500 (. 615

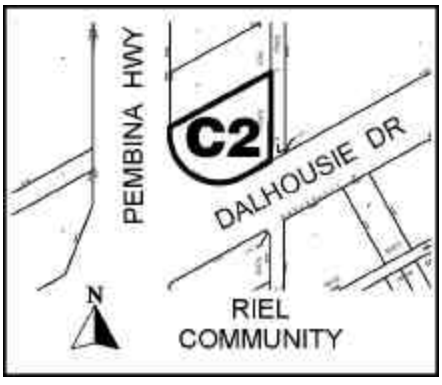
November 24, 2003

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

Dear : Mr. Pittet

ZONING AGREEMENT AMENDMENT
Location : 2654/2660 Pembina Hwy.
Riel Community
File No. ZAA 14/03

An application has been received from Frontier Toyota Ltd. To amend the Zoning Agreement affecting the property shown by deleting clause No. 2 of the Zoning Agreement to DAZ 238/84 which states : " No building , structure or land shall be used and no building shall be erected, altered or enlarged on the land for any use except: 1) automobile sales area and showroom, open or enclosed & incidental pre –servicing & warranty repairs for automobiles sold on the premises; 2) signs as accessory to the use in (1) above and ; 3) accessory uses.



RELATED FILES: NA

SITE DESCRIPTION:

Dimensions:
Approximately 160' by 200' in depth.

Site Area:
Approximately 32,000 sq. feet or ¾ of an acre.

Existing Land Use and Zoning:
There is an existing one storey structure zoned C2 Commercial on the subject property.

DEVELOPMENT DESCRIPTION:

The entire property currently owned by Frontier Toyota has almost 400' of frontage along Pembina Highway, all of which is zoned C2 Commercial. However the most southerly 170 feet (¾ acre) was rezoned separately from the northern portion and has a much more restrictive zoning agreement. Additionally, the existing building which once housed Frontier Toyota, lies in part in the area governed by the original less restrictive agreement and in part in the area governed by the more recent more restrictive agreement. In order to more easily market the entire property and rectify the inconsistency in agreements, the applicant therefore has made application to amend the agreement established in 1984 by deleting the aforementioned clause 2, thereby allowing for the same set of permitted C2 uses permitted on the north half of the property.

ADMINISTRATIVE COMMENTS:

Almost twenty years has passed since By-Law 238/84 was passed, so it is difficult to know what prompted the very restrictive agreement in the first place. Certainly, at that time, restrictive agreements were commonplace given that at that time, potentially disruptive uses like carwashes and convenience stores were not conditional under many of the local by-laws. However that is no longer the case. By-law No. 6400/94 has identified and made conditional any uses which may have an adverse effect on adjoining neighbourhoods, thereby often avoiding the need for restrictive agreements. It is the position of this Department that the requested amendment can and should be supported both because 1) it will clean up the situation whereby two vastly different agreements apply to effectively one property and 2) the restrictive nature of clause 2 is no longer pertinent given the nature of development that has occurred in the interim on adjoining lands.

RECOMMENDATION:

I. That Zoning Agreement DAZ 238/84 (By-law No. 3854/84) be amended by deleting clause 2 of the agreement which states: ' No building, structure or land shall be used and no building shall be erected or altered or enlarged on the land for any use except: 1) automobile sales area and showroom, open or enclosed, and incidental pre-servicing and

warranty repairs for automobiles sold on the premises; 2) signs as accessory to the use in (1) above; 3) accessory uses.

II. That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 238/84 (By-law No. 3854/84) dated Nov. 8/84 , 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.

Final

Yours truly,

C. Knoll
Manager of Planning and Land Use

Per:

Kevin Lalor
, Senior Planner
Riel Community
986-5069

/jc