Agenda - Council - March 24, 2004

Report - Standing Policy Committee on Property and Development - March 2, 2004

Item No. 8 Zoning Agreement Amendment - 2175 St. Mary's Road
File ZAA 15/2003 [DASZ 12(1) 1982]

STANDING COMMITTEE RECOMMENDATION:

On March 17, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee and submits the following to Council:

1. That Zoning Agreement DASZ 12(1)/82 (ZAA 11/89) be amended to permit the construction of a residential building on the land to a maximum of three (3) storeys in height and the construction of other accessory structures such as signs to a maximum height of forty (40) feet instead of the maximum one (1) storey for buildings and twenty-five (25) feet in height for other structures currently permitted under the existing Agreement.

2. That plans for the construction of any accessory structures such as signs be submitted to and approved by the Riel Community Committee prior to the issuance of any building permits.

3. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 12(1)/82 (ZAA 11/89) as approved in Recommendation 1.

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 - March 2, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 17, 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 March 2, 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 February 17, 2004, the Riel Community Committee concurred in the administrative recommendation, as amended, namely:

- Add the following as Recommendation 2:

    2. That plans for the construction of any accessory structures such as signs be submitted to and approved by the Riel Community Committee prior to the issuance of any building permits,

    and renumber the remaining recommendations accordingly,

and forwarded to the Standing Policy Committee on Property and Development.

On January 20, 2004, the Riel Community Committee adjourned the Public Hearing for the Zoning Agreement Amendment application to a special meeting to be held on February 17, 2004, in the Community Committee Chamber, 604 St. Mary's Road.

RE: **Zoning Agreement Amendment - 2175 St. Mary's Road**
File ZAA 15/2003 [c/r DAV 333780/2003D and DCU 333755/2003D]

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

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

Report date: **February 24, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 17, 2004, the Riel Community Committee concurred in the administrative recommendation, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement DASZ 12(1)/82 (ZAA 11/89) be amended to permit the construction of a residential building on the land to a maximum of three (3) storeys in height and the construction of other accessory structures such as signs to a maximum height of forty (40) feet instead of the maximum one (1) storey for buildings and twenty-five (25) feet in height for other structures currently permitted under the existing Agreement.

2. That plans for the construction of any accessory structures such as signs be submitted to and approved by the Riel Community Committee prior to the issuance of any building permits.

3. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 12(1)/82 (ZAA 11/89) as approved in aforesaid Recommendation 1.

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 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 January 13, 2004.

PUBLIC HEARING SUMMARY

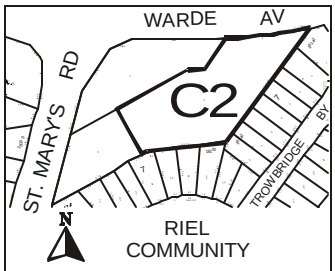
File: ZAA 15/2003 [c/r DAV 33378/203D and DCU 333755.2003D]

Before: Riel Community Committee
Councillor Angus, Chairperson
Councillor Vandal

Public Hearing: February 17, 2004
Community Committee Chamber, 604 St. Mary's Road
January 20, 2004
Community Committee Chamber, 219 Provencher Boulevard

Applicant: McGowan Russell Design Group Inc.

Subject:



APPLICANT: McGOWAN RUSSELL DESIGN GROUP INC.
FILE: ZAA 15/03
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above to permit the construction of a building located on the land to a maximum of three (3) storeys in height and structures to a maximum of forty (40) feet in height instead of one storey in height for buildings and 25 feet in height for structures as stipulated in the Agreement. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : McGOWAN RUSSELL DESIGN GROUP INC.
RÉFÉRENCE : MCZ 15/03
PROJET : Modification de la convention de zonage visant le terrain indiqué ci-dessus en vue d'y permettre la construction d'un bâtiment d'une hauteur maximale de trois (3) étages et de structures d'une hauteur maximale de quarante (40) pieds au lieu d'un bâtiment sans étage et de structures d'une hauteur maximale de vingt-cinq (25) pieds ainsi qu'il est précisé dans la convention. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 2175 St. Mary's Road

Exhibits Filed:

1. Application dated November 19, 2003
2. Notification of Public Hearing dated November 28, 2003
3. Manitoba Status of Title 1904584
4. Surveyor's Building Location Certificate and sketch dated July 4, 2002
5. Letter of authorization dated October 3, 2003 from Trico Developments to Ross McGowan, McGowan - Russell
6. Zoning Agreement DASZ 12(1)/82
7. Site Plan dated November 5, 2003
8. Proposed Underground Parking Plan, Site Plan, and Landscaping Plan dated July, 2003
9. Report from the Manager of Planning and Land Use dated January 13, 2004
10. Inspection Report
11. Petition in opposition to the application purporting to contain the signatures of 54 area residents, submitted by Ron Suchy on January 20, 2004
12. Communication dated January 20, 2004, from Dave and Barb Gemmell in opposition to the application
13. Communication dated February 9, 2004, from Bruce Whalley in support of the application
14. Communication dated February 16, 2004, from Scott Streu in support of the application
15. Presentation submitted by Richard Bembridge on February 17, 2004
16. Presentation submitted by Susan Feldman on February 17, 2004
17. Photographs submitted by Ron Suchy on February 17, 2004

REPRESENTATIONS:

In Support:

Peter Alevizos
Richard A. Bembridge
Susan Feldman
Jay Lev
John Rohs
Ray Wan
Tom Alevizos
Kent Bullock
Richard Gardner
Ross McGowan
Scott Streu
Bruce Whalley

In Opposition:

Cathy Carpenter
Cathy Erickson
D. M. and Barb Gemmell
Lynne McConnell
Arnel and Celia Purificacion
Dave and Eunice Senio
Jeannine Trudel
Danielle and Karen Zbrog
Diane Dacquay
Norbert Gauthier
Darlene Gerrior
Cristian and Gabriela Popescu
Deborah and Edward Rivington
Ron Suchy
Esperanza L. Visarra

For Information:

Tim Hrycyna

For the City:

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

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

February 17, 2004

Councillor Angus reopened representations and asked Kevin Lalor, Senior Planner, Planning Property and Development Department, to provide a summary of the most recent meeting between the applicants and area residents. The Senior Planner stated that the meeting was chaired by Doug Kalcsics, former Director of the Planning, Property and Development Department, and that approximately ten (10) area residents were in attendance. The Senior Planner also stated that the majority of area residents indicated they were not opposed to the nature of the proposal but specifically its proposed height and lack of a buffer area due to its proximity to existing homes.

Ray Wan, Ray Wan Architects and Ross McGowan, McGowan Russell Design Group Inc., appeared in support of the application.

In response to a question from Councillor Angus, Mr. McGowan stated the applicant was not prepared to parcel this development together with the adjacent lot also owned by the developer. In response to another question from Councillor Angus, Mr. Wan stated that the applicant would not be able to "flip" the footprint of the development as the density would have to be decreased resulting in the loss of six (6) units, another zoning variance would be required and a sea of asphalt would be created adjacent to the homes on Bruton Place. Mr. McGowan stated that the developer would be willing to plant an extensive buffer of plantings in the rear yard and would also plant on private property if requested by the residents.

In response to a question from Councillor Angus, Mr. Wan stated that that the applicant would not be willing to eliminate any of the balconies that are facing Bruton Place but may be able to reconfigure them.

Richard Bembridge, Trico Developments Inc., appeared in support of the application and read from a presentation filed as Exhibit 15.

Constable Kent Bullock appeared in support of the application. Constable Bullock indicated that he was appearing as a member of the Community and not on behalf of the Winnipeg Police Service. Constable Bullock stated that that development would not contribute to vandalism or mischief unlike a commercial development that would be more likely to negatively impact the area.

Susan Feldman, Priority Realty Inc., appeared in support of the application and read from a presentation filed as Exhibit 16.

Ron Suchy appeared in opposition to the application. Mr. Suchy iterated the following concerns:

- The residents requested the developer reconfigure the building to reduce its height and increase the distance from area residents but the applicants indicated this was not possible and did not provide area residents with any alternative plans.
- The third floor balconies would create a loss of privacy for existing residents.
- Sunlight and a view of the skyline would be obstructed by the proposed development.
- Overflow parking from the development may affect parking on Bruton Place and Trowbridge Bay.
- This development would cause a decrease in the value of adjacent residential properties.

Mr. Suchy stated he had looked at similar developments, as per Councillor Angus' suggestion, and submitted pictures (filed as Exhibit 17) of Burland Estates, River Park Estates, Oak Ridge Manor, 165 John Forsyth Road and Windemere Courts. Mr. Suchy also stated that Windemere Courts was the site most similar to the proposed development. Mr. Such further stated that he had spoken with residents on Ashford Drive, adjacent to Windemere Courts, who imparted that their personal privacy was compromised and that their property values had likely decreased with the construction of Windemere Courts.

Councillor Angus stated that, in his experience, parking lots between residential areas and developments such as this can be quite disruptive. In response to a question from Councillor Angus, Mr. Suchy indicated that he was aware that this site could be developed commercially and that he was not opposed to a commercial development being constructed in this location.

Dave and Eunice Senio appeared in opposition to the application and reiterated concerns raised by Mr. Suchy regarding loss of privacy, the height of the structure and the reduction of sunlight/skyline.

Diane Dacquay and Cathy Carpenter appeared in opposition to the application. Ms. Carpenter stated she was disappointed that the developer had not altered its plan in any way to reflect the concerns of area residents and that she should not have to alter the plantings in her back yard as they are already established. Ms. Carpenter reiterated many of the concerns raised by Mr. Suchy and stated that she was comfortable with the existing commercial zoning designation of the property and that she was aware that this property would be developed eventually. Ms. Carpenter iterated that she would likely contemplate moving should this development would be approved. Ms. Carpenter further stated that the development would negatively impact the flowers and garden in her back yard and that a solution should be arrived at that would benefit both the developer and area residents. Ms. Dacquay stated that she was not concerned should this site be developed commercially.

Norbert Gauthier appeared in opposition to the development and reiterated concerns previously raised with respect to the height of the proposed structure and increased traffic in the neighbourhood.

Deborah Rivington appeared in opposition to the application, reiterated concerns previously raised and refuted Susan Feldman's statement that property values would not be negatively impacted by the proposed development, as many of the developments cited by Ms. Feldman were not located as close to residential properties and the parking at said buildings was located between the buildings and residential properties.

Ross McGowan and Ray Wan returned in rebuttal. Mr. McGowan displayed a diagram developed from a computerized shadow-casting program that charted the effect of shadows by latitude, city and time of day. Mr. McGowan stated that the shadows cast by a two-storey residential home, a twenty-five foot (25') high commercial development or a thirty-five foot (35') structure as proposed would be roughly the same.

In response to a question from Councillor Angus, Mr. Wan stated that the proposed development would provide fifty percent (50%) more parking than required. Councillor Angus indicated that the developer should investigate shared parking, in particular for visitors to the proposed building, with the adjacent lot.

Ross McGowan stated that the developer would be willing to plant a dense row of trees that would screen the development from existing homeowners for eight (8) months of the year and would plant trees on private properties if requested.

Mr. Wan displayed diagrams showing the height of the proposed development, a two-storey residential home and a twenty-five foot high commercial development and indicated that the height of the proposed development could be reduced to thirty-five (35') feet if required.

Councillor Angus stated that he agreed with the comments contained in the report of the Manager of Planning and Land Use dated January 13, 2004, and would be supporting this application. Councillor Angus also stated that the site plan could be reconfigured and moved ten (10') to fifteen (15') feet closer to St. Mary's Road by moving the parking and landscaping at the front of the lot. Councillor Angus further stated that this reconfiguration would negate the effect of the height of the proposed structure on area residents. Councillor Angus further stated that he would add a condition whereby building permits would not be issued prior to the Riel Community Committee approving plans for the development to ensure that the site plan is modified.

January 20, 2004

Ray Wan, Ray Wan Architects and Ross McGowan, McGowan Russell Design Group Inc., appeared in support of the application and provided an overview of the application, including the history of the property and the current zoning of said property.

Mr. McGowan stated that the applicants have met four times with local residents to discuss development options for the property in question. Mr. McGowan also stated that all residents who attended the last meeting were supportive of the proposal before Committee.

Ray Wan stated it was likely the development could be reduced from forty (40) feet in height to thirty-six (36) feet. Mr. Wan explained that the applicants had looked at increasing the distance from area residents but did not want to create a sea of asphalt. Mr. Wan iterated that, from an architectural standpoint, it would be better for neighbouring residents if a multiple-family residential building would be constructed in lieu of commercial development on the property.

In response to a question from Councillor Angus, Mr. Wan stated that, at the first meeting with residents, there was no negative reaction to the proposed twenty-five (25) foot rear yard. Mr. Wan also stated the applicant would be willing to plant trees on private property, if requested, to mitigate the view from the proposed condominiums. Councillor Angus stated that, should the application be approved, the applicants would be required to return to Community Committee for plan approval.

Ron Suchy appeared in opposition to the application. Mr. Suchy stated that the idea of reversing the footprint for the project had not been discussed at the open house on August 14, 2003. Mr. Suchy also stated that, at said meeting, he had voiced his objection to the development of any development over twenty-five (25) feet in height. Mr. Suchy further stated that the proposed development would create:

- A loss of privacy

- Safety concerns for area children
- An obstructed view
- Decreases in property values

Mr. Suchy submitted a petition purporting to contain the signatures of 54 area residents opposing the application (Exhibit 11) and read into the record a letter from Dave and Barb Gemmell opposing the application (Exhibit 12).

In response to a question from Councillor Angus, Mr. Suchy replied that he would prefer having thirty-five (35) foot high, two-storey homes constructed on the site in question, as opposed to condominiums, as this would not be as disruptive to his privacy.

Ray Wan and Ross McGowan returned in rebuttal. Mr. McGowan indicated that he was surprised by Mr. Suchy circulating a petition as he had not attended any of the open houses. Mr. McGowan restated his willingness to work with area residents. Councillor Angus stated that his intention was to adjourn the public hearing to provide the applicants another opportunity to meet with area residents. Councillor Angus further stated that he was not as concerned with the height of the proposed development but with its proximity to adjacent residents and the lack of an appropriate back yard buffer. Councillor Angus iterated that the property in question has not been developed since it was originally rezoned in 1988 and its commercial zoning designation could accommodate development which could prove to be more injurious to area residents.

Exhibit "9" referred to in File ZAA 15/2003

In reply please refer to / Référence à rappeler :

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

File No. ZAA 15 /03
Our c/f CP 500 (. 529)

January 13, 2003

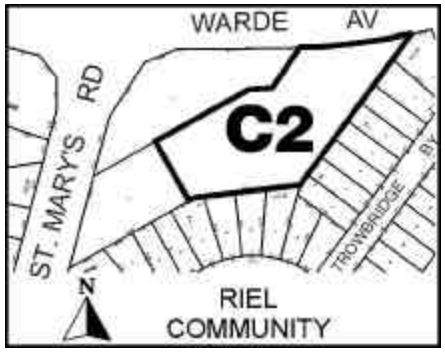
Marc Pittet
Riel Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear : Mr. Pittet

ZONING AGREEMENT AMENDMENT
Location: 2175 St. Marys Road
Riel Community
File No. ZAA 15/03

An application has been received from McGowan/Russell, to amend the existing Zoning Agreement affecting the property shown below by permitting the construction of a building to be located on the land to a maximum of three(3) storeys in height and all other structures to be restricted to a maximum 40' in height instead of one(1) storey for building and 25' maximum for other structures as stipulated in the current Agreement.

RELATED FILES: DCU03-333755D
DAV03-333780D



3086

SITE DESCRIPTION:

Dimensions:

The subject property has frontage on Warde Avenue and is the residual parcel left over from an earlier partial commercial development of the property which occurred at the corner and along St. Mary's Road.

Site Area:

The subject property is approximately 2.6-3 acres in size.

Existing Land Use and Zoning:

The land is currently zoned C2 Commercial and has remained vacant commercial property for almost twenty years.

DEVELOPMENT DESCRIPTION:

ADMINISTRATIVE COMMENTS:

In 1987 Paul Janzen Architects made a similar application (by way of rezoning) to permit 40 multiple family dwelling units on the same parcel of the land. At that time , the Administration supported a change in the land use, suggesting that a properly landscaped multiple family project with restrictions on density was probably preferable to relatively unrestricted commercial development. The City recommended a maximum 3 storeys or 35' in height for all building erected on the site. The residents living along Bruton and Trowbridge, at that time, collectively opposed the proposed change in land use and the application was not proceeded with. The current applicants, McGowan & Russell on behalf of Trico Developments, are proposing a similar use of the land but with a slightly higher residential density, specifically 60 units. Their residential proposal is at a density permitted under the C2 zoning thereby avoiding the need for a rezoning.What is different from the 1987 proposal is that the land being developed is smaller in overall size and the design calls for underground parking in addition to surface parking. There are 76 underground stalls proposed in addition to 18 surface parking stalls on the north side of the proposed building. The other noteworthy difference is that the applicant and the architect have engaged the local residents in several meetings over a period of 3-4 months and it would appear that most adjoining residents are prepared to support the proposed development in exchange for significant landscaping both on and off their properties. That landscaping(and it may vary in type and intensity from lot to lot) is intended to mitigate impact between adjacent homeowners and the new condo development. Under the previous Agreement, final Schedule"A" site and landscaping plans are required to be submitted for approval prior to the issuance of any building permits on site. Therefore it is hoped that landscaping details(i.e. a landscaping plan) as they relate to all affected lots have been completed by the time final building plans are ready for submission for approval.

RECOMMENDATION:

I. That Zoning Agreement DASZ 12(1)/82(ZAA11/89) be amended to permit the construction of a residential building on the land to a maximum of three(3)storeys in height and the construction of other accessory structures such as signs to a maximum height of forty(40) feet instead of the maximum one(1)storey for buildings and 25'in height for other structures currently permitted under the existing Agreement.

II. That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ12(1)/82 (ZAA 11/89) 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,

Chris Knoll
Manager of Planning and Land Use

Per: Kevin Lalor
, Senior Planner
Riel Community
986-5069

/mf

3088