Minute No. 406
Report - Standing Policy Committee on Property and Development - June 8, 2004

Item No. 25 Zoning Agreement Amendment - 204 Day Street
File ZAA 7/2004 [c/r DAZ 258/75]

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee and submits the following to Council:

1. That the Zoning Agreement under File DAZ 258/75 (Caveat No. 257068), dated April 19, 1978, (By-Law No.1063/75) be amended as follows:

    A. That paragraph 2 be deleted and substituted with the following:

        i. That land usage be restricted as follows;

            a. The following uses shall not be permitted on the land:

                1. Automobile, including motorcycle: Rental, Sales, including accessory Repair, Service, Installation of Supplies/Parts
                2. Automobile, including motorcycle: Supplies/Parts, Sales
                3. Automobile, including motorcycle: Cleaning
                4. Beer: Sales
                5. Bingo Parlour
                6. Billiard Parlour
                7. Bus Station
                8. Contractors Establishment
                9. Exterminator
                10. Farm Supplies: Sales
                11. Fuel: Sales kiosk
                12. Machinery/Heavy Equipment Supplies and Parts: Sales, 13. Installation, Service
                14. Mobile Home Park
                15. Motors or Machines, Recreational or Utility, including power toboggans, outboard motors, lawn mowers: Rental, Sale, Service
                16. Parking Area, non-accessory

Report - Standing Policy Committee on Property and Development - June 8, 2004

17. Pawnshop
18. Tattoo Parlour
19. Terminal for Haulage, Motor Freight Station, excluding an intermodal terminal
20. Terminal for Courier/Delivery/Express Service, Cleaning Service, Key and Lock Service, Security Service, Taxi or similar service
21. Tire: Sales, Service

ii. That for the development of any building, accessory parking area or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the East Kildonan-Transcona Community Committee for plan approval prior to the issuance of any building or development permit.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 258/75 (By-law No. 1063/75) dated April 19, 1978, 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 in the event the application is not proceeded with expeditiously and the agreement is not signed within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of this time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

Report - Standing Policy Committee on Property and Development - June 8, 2004

DECISION MAKING HISTORY:

Moved by Councillor Gerbasi,

That the recommendations of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On June 8, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On May 4, 2004, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment – 204 Day Street**
File ZAA 7 /2004 [c/r DAZ 258/75]

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

Prepared by: **Inga Skundberg, Clerk**
East Kildonan-Transcona Community Committee

Report date: **May 14, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 4, 2004, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement Caveat No. 257068 under File DAZ 258/75, dated April 19, 1978 (By-Law No.1063/75) be amended as follows:

    A. That paragraph 2 be deleted and substituted with the following:

        i. That land usage be restricted as follows;

            a. The following uses shall NOT be permitted on the land:

            AUTOMOBILE, including motorcycle: RENTAL, SALES, including accessory REPAIR, SERVICE, INSTALLATION OF SUPPLIES/PARTS
            AUTOMOBILE, including motorcycle: SUPPLIES/PARTS, SALES
            AUTOMOBILE, including motorcycle: CLEANING
            BEER: SALES
            BINGO PARLOUR
            BILLIARD PARLOUR
            BUS STATION
            CONTRACTORS' ESTABLISHMENT
            EXTERMINATOR
            FARM SUPPLIES: SALES
            FUEL: SALES kiosk
            MACHINERY/HEAVY EQUIPMENT SUPPLIES and PARTS: SALES, INSTALLATION, SERVICE
            MOBILE HOME PARK
            MOTORS or MACHINES, RECREATIONAL or UTILITY, including power toboggans, outboard motors, lawn mowers: RENTAL, SALE, SERVICE
            PARKING AREA, non-accessory

PAWNSHOP
TATTOO PARLOUR
TERMINAL for HAULAGE, MOTOR FREIGHT STATION, excluding an intermodal terminal
TERMINAL for COURIER/DELIVERY/ EXPRESS SERVICE, CLEANING SERVICE, KEY AND LOCK SERVICE, SECURITY SERVICE, TAXI, or similar service
TIRE: SALES, SERVICE

ii. That for the development of any building, accessory parking area or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the East Kildonan-Transcona Community Committee for plan approval prior to the issuance of any building or development permit.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 258/75 (By-Law No. 1063/75) dated April 19, 1978, as approved in aforesaid Clause I.

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 in the event this application is not proceeded with expeditiously and the agreement is not signed within twenty-four (24) months after adoption of this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of this time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

The East Kildonan-Transcona Community Committee provided the following supporting reason for its recommendation:

1. The restriction of type of uses permitted on the land recommended by the Administration is reasonable based on the location of the subject application.

PUBLIC HEARING SUMMARY

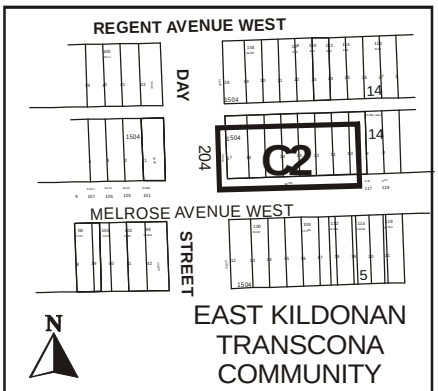
File: ZAA 7/2004 [c/r DAZ 258/75]

Before: East Kildonan-Transcona Community Committee
Councillor Wyatt, Chairperson
Councillor Lubosch
Councillor Thomas

Public Hearing: May 4, 2004
Community Committee Chamber
755 Henderson Highway

Applicant: James Harley
D'Arcy & Deacon

Subject:



APPLICANT: D`ARCY & DEACON
FILE: ZAA 7/04
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above to allow for an expanded list of permitted uses. **For information, phone Mr. J. Wintrup, Planner at 986-5102**

Premises Affected: 204 Day Street

Exhibits Filed:

1. Application dated March 30, 2004
2. Notification of Public Hearing dated April 1, 2004
3. Manitoba Status of Title 1961435
4. Letter of authorization dated February 2, 2004, from Dean Hanisch, President, 1562001 Ontario Incorporated to J. G. Harley, D'Arcy & Deacon, Barristers and Solicitors.
5. Zoning Agreement DAZ 258/75

6. Caveat No. 257068 and Amendment to Zoning Agreement.DAZ 258/75
7. Report from the Manager of Planning and Land Use dated April 19, 2004
8. Inspection Report
9. Communication dated May 4, 2004, from Martin L. McGarry, Colliers Pratt McGarry, with respect to the proposed prohibited uses as outlined in the Report from the Manager of Planning and Land Use dated April 19, 2004

REPRESENTATIONS:

In Support:

James Harley, D'Arcy & Deacon

In Opposition:

Nil

For Information:

Nil

For the City:

John Wintrup, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING

James Harley appeared in support of the application. He expressed concern regarding some of the uses the Administration has proposed be prohibited on the land, such as those relating to Automobile, Contractor's Establishment, and a Terminal for Courier/Delivery/Express Service, Cleaning Service, Key and Lock Service, Security Service, Taxi, or similar service, and submitted a letter from Colliers Pratt McGarry in this connection, filed as Exhibit 9.

Exhibit "7" referred to in File ZAA 7/2004

In reply please refer to / Référence à rappeler :

John S. Wintrup
(204) 986-5102
Fax / Téléc. : (204) 986-3684

File No. ZAA 7 / 04 April 19, 2004
Our c/f CP 500 (.402)

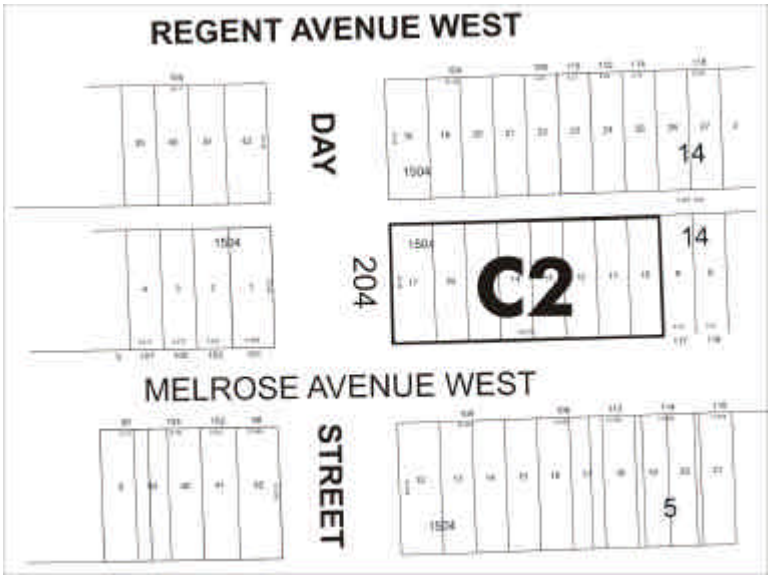
Ms. Inga Skundberg, Community Clerk
East Kildonan – Transcona Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Skundberg:

ZONING AGREEMENT AMENDMENT
204 Day Street
East Kildonan - Transcona
File No. ZAA 7 / 04

An application has been received from James Harley, to amend the Zoning Agreement affecting the property shown below.

RELATED FILES: DAZ 258/75



SITE DESCRIPTION:

Dimensions:

100 feet by 224 feet.

Site Area:

22,430 square feet (0.5 acres).

Existing Land Use and Zoning:

Vacant building zoned “C2” Commercial.

DEVELOPMENT DESCRIPTION:

The subject property is the former Kraus Industries building that is now vacant. The applicant intends to market the land for a commercial use. The applicant is proposing to expand the list of allowable uses beyond the current list of one, an electronic components assembly plant.

ADMINISTRATIVE COMMENTS:

The building was originally constructed to house a curling rink. Kraus Industries rezoned the building to “M1” Industrial District in 1975. This rezoning limited the land-uses to just one: an electronic components assembly plant. Yards and landscaping requirements were also part of the rezoning agreement. The agreement was amended in 1976 to allow for the construction of an addition to the building.

The land was subsequently designated “C2-S” Commercial in a blanket rezoning under Zoning By-Law 4440/1986. This commercial designation was carried over with the passing of Zoning By-law, 6400/1994 when the land became “C2”. The zoning agreement to restrict the building to one use, however, has run with the land.

A “C2” Commercial District is intended to regulate more intensive commercial sites that do not have a local or neighbourhood orientation. These land-uses tend to cater to a community wide market. This zoning category is common throughout the City of Winnipeg and would include Regent Avenue West between Winona and Day Street. There are 104 Permitted Uses and 47 Conditional Uses in the “C2” Commercial District.

The Planning and Land-Use Division supports expanding the uses for the subject property. Allowing only the one use prevents alternative users to occupy the building or land. It is doubtful another electronic components assembly plant will locate into the building. There is also potential for a multiple family use to be implemented and this can be allowed under an expanded list of “C2” Commercial District uses. Thus, the Zoning Agreement can be amended to increase the marketability of the vacant building & land, and to permit new activities that are compatible with the adjacent neighbourhood. However, the Planning and Land-Use Division recommends that the type of uses permitted on the land be restricted to allow only uses that are compatible

with the adjacent residential dwellings. This would result in 22 of the 104 permitted "C2" uses not being allowed to occupy the land or the building due to the proximity of the residential dwellings.

RECOMMENDATION:

A. That the Zoning Agreement Caveat No. 257068 under file no. DAZ 258/75, dated April 19, 1978 (By-Law # 1063/75) that paragraph 2 be deleted and substituted with the following:

a. That land usage be restricted as follows;

i) The following uses shall NOT be permitted on the land:

AUTOMOBILE, including motorcycle: RENTAL, SALES, including accessory REPAIR, SERVICE, INSTALLATION OF SUPPLIES/PARTS
AUTOMOBILE, including motorcycle: SUPPLIES/PARTS, SALES
AUTOMOBILE, including motorcycle: CLEANING
BEER: SALES
BINGO PARLOUR
BILLIARD PARLOUR
BUS STATION
CONTRACTORS' ESTABLISHMENT
EXTERMINATOR
FARM SUPPLIES: SALES
FUEL: SALES kiosk
MACHINERY/HEAVY EQUIPMENT SUPPLIES and PARTS: SALES, INSTALLATION, SERVICE
MOBILE HOME PARK
MOTORS or MACHINES, RECREATIONAL or UTILITY, including power toboggans, outboard motors, lawn mowers: RENTAL, SALE, SERVICE
PARKING AREA, non-accessory
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TIRE: SALES, SERVICE

b. That for the development of any building, accessory parking area or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage

enclosures, fencing, landscaping and signage to the East Kildonan – Transcona Community Committee for plan approval prior to the issuance of any building or development permit.

B. That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 258/75 (By-Law #1063/75), dated, April 19, 1978 as approved in aforesaid Clause I.

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

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

E. That, in the event this application is not proceeded with expeditiously and the agreement is not signed within twenty-four (24) months after adoption of this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of this time is applied for prior to the expiry of this twenty four (24) month period and the extension is subsequently approved by Council.

Final Draft

Yours truly,

C. Knoll
Manager of Planning and Land Use

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Per: John S. Wintrup, Planner
East Kildonan – Transcona Community
986-5102



Figure 1: Air Photo of Subject Property and Surrounding Context

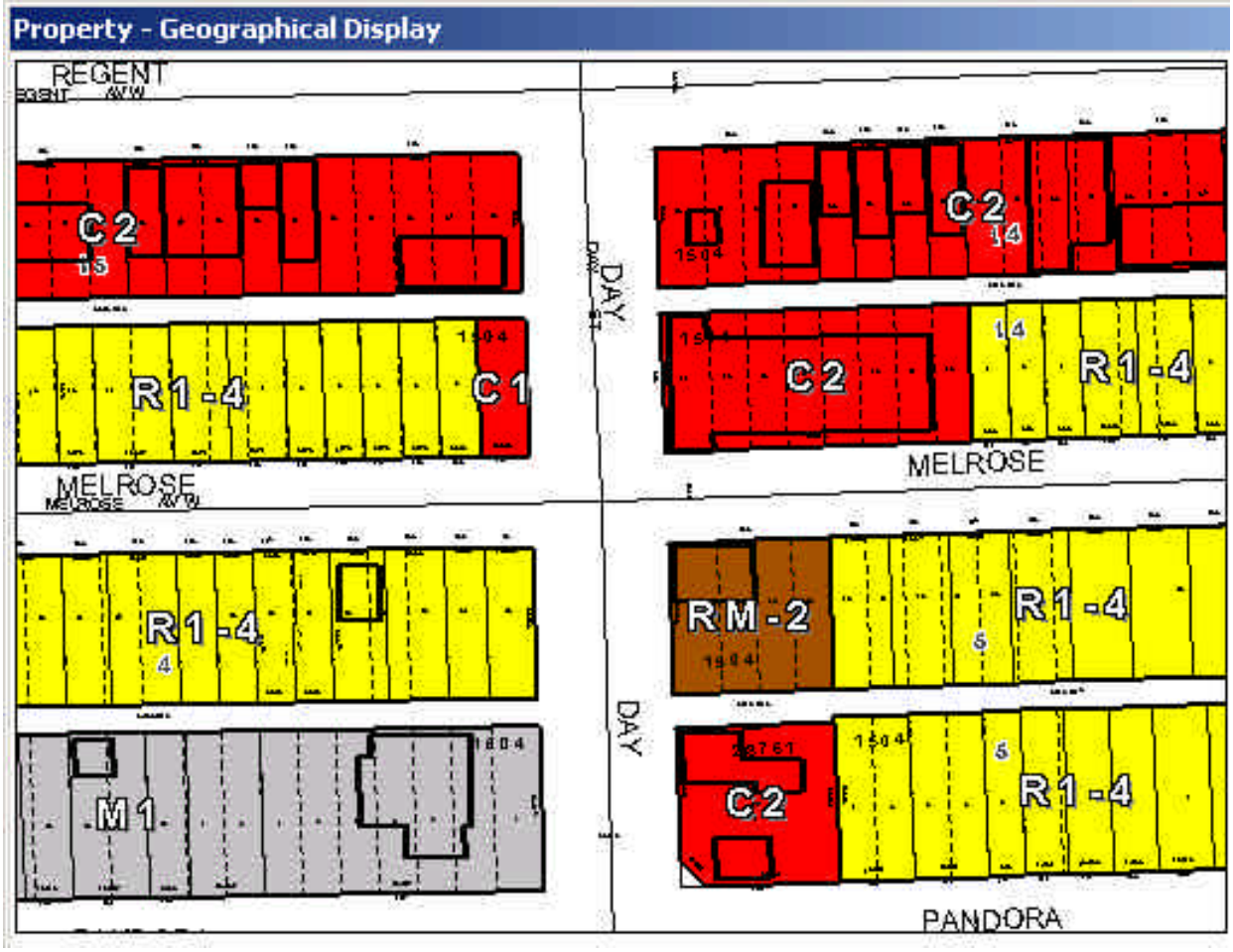

Figure 2: Zoning Map of Subject Property and Surrounding Context