Agenda - Council - July 21, 2004

Report - Standing Policy Committee on Property and Development - July 9, 2004

Item No. 6 Rezoning - northwest corner Bayridge Avenue and Ulster Street File DAZ 205/2004

STANDING COMMITTEE RECOMMENDATION:

On July 14, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That The City of Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 205/2004 dated April 12, 2004, to a "C2" Commercial District subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

        i. That plans shall be submitted showing the location and design of any new proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing and landscaping to the Riel Community Committee for plan approval prior to the issuance of any building or development permits.

        ii. That there will be no vehicular access permitted to the site via either Ulster Street or Bayridge Avenue.

        iii. That the subject land shall be used for the storage of lumber only.

        iv. That a six (6) foot high lightproof fence be established and maintained along the south, east and north sides of the property.

        v. That no lumber shall be stacked higher than eight (8) feet within twenty-five (25) feet of the easterly fence line.

        vi. That the applicant shall successfully negotiate a cross access easement with Manitoba Hydro.

2. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

Report - Standing Policy Committee on Property and Development – July 9, 2004

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted 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 time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

5. That the rezoning by-law shall come into effect when the zoning agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. 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 - July 9, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 14, 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 July 9, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee, with the following amendment, namely:

- Recommendation 5
  Delete the words “as a first charge” in the second line thereof,

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

COMMUNITY COMMITTEE RECOMMENDATION:

On June 14, 2004, the Riel Community Committee did not concur in the administrative recommendation and recommended that the rezoning be proceeded with, subject to the following conditions:

1. That The City of Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule “A” for File DAZ 205/2004 dated April 12, 2004, to a “C2” Commercial District subject to the following:

   A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

      i. That plans shall be submitted showing the location and design of any new proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing and landscaping to the Riel Community Committee for Plan Approval prior to the issuance of any building or development permits.

      ii. That there will be no vehicular access permitted to the site via either Ulster Street or Bayridge Avenue.

Report - Standing Policy Committee on Property and Development – July 9, 2004

DECISION MAKING HISTORY (Continued)

iii. That the subject land shall be used for the storage of lumber only.

iv. That a six (6) foot high lightproof fence be established and maintained along the south, east and north sides of the property.

v. That no lumber shall be stacked higher than eight (8) feet within twenty-five (25) feet of the easterly fence line.

vi. That the applicant shall successfully negotiate a cross access easement with Manitoba Hydro.

2. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

3. That in the event this application is not proceeded with expeditiously and the by-law is not enacted 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 time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

5. That the rezoning by-law shall come into effect when the zoning agreement has been registered by caveat as a first charge against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. 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,

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

RE: Rezoning - Northwest corner Bayridge Avenue and Ulster Street
File DAZ 205 /2004

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

Prepared by: Marc Pittet, Clerk,
Riel Community Committee

Report date: June 28, 2004

COMMUNITY COMMITTEE RECOMMENDATION:

On June 14, 2004, the Riel Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That The City of Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 205/2004 dated April 12, 2004, to a "C2" Commercial District subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

        i. That plans shall be submitted showing the location and design of any new proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing and landscaping to the Riel Community Committee for Plan Approval prior to the issuance of any building or development permits.

        ii. That there will be no vehicular access permitted to the site via either Ulster Street or Bayridge Avenue.

        iii. That the subject land shall be used for the storage of lumber only.

        iv. That a six (6) foot high lightproof fence be established and maintained along the south, east and north sides of the property.

        v. That no lumber shall be stacked higher than eight (8) feet within twenty-five (25) feet of the easterly fence line.

        vi. That the applicant shall successfully negotiate a cross access easement with Manitoba Hydro.

2. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

3. That in the event this application is not proceeded with expeditiously and the by-law is not enacted 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 time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

5. That the rezoning by-law shall come into effect when the zoning agreement has been registered by caveat as a first charge against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. 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 subject property has been on the market for quite some time and the proposal will not negatively impact the community.

PUBLIC HEARING SUMMARY

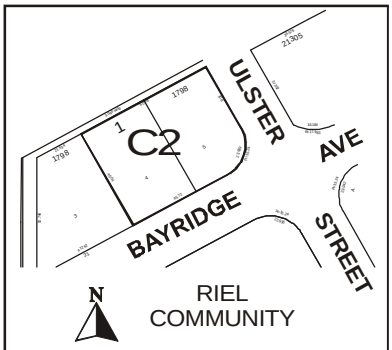
File: DAZ 205/2004

Before: Riel Community Committee
Councillor Angus, Chairperson
Councillor Steeves

Public Hearing: June 14, 2004
St. Norbert Community Centre, 3450 Pembina Highway
May 18, 2004
Community Committee Chamber, 604 St. Mary's Road
April 20, 2004
Community Committee Chamber, 219 Provencher Boulevard

Applicant: George Bohemier

Subject:



APPLICANT: MR. G. BOHEMIER
FILE: DAZ 205/04
PROPOSAL: To rezone the land shown outlined above from an "RM-2" MULTIPLE-FAMILY DISTRICT to a "C2" COMMERCIAL DISTRICT to allow for commercial development. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : Monsieur G. Bohémier
N^{o} DE DOSSIER : DAZ 205/04
PROJET : Rezoner le bien-fonds indiqué ci-dessus en le faisant passer de la catégorie RM-2 (SECTEUR D'HABITATIONS MULTIFAMILIALES) à la catégorie C2 (SECTEUR COMMERCIAL) afin d'y permettre le développement commercial. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: Northwest corner Bayridge Avenue and Ulster Street
3064

Exhibits Filed:

1. Application dated March 11, 2004
2. Notification of Public Hearing dated March 18, 2004
3. Manitoba Status of Title 1616397
4. Surveyor's Building Location Certificate and sketch dated September 17, 2001
5. Letter of authorization dated January 27, 2004, from Valerie Thompson, Vice-President, Frontier Toyota to Mr. George Bohemier, Century 21
6. Report from the Manager of Planning and Land Use dated April 12, 2004
7. Inspection Report
8. Communication dated April 13, 2004, from Georges Bohemier requesting that the application be adjourned to May 18, 2004
9. Communication dated May 18, 2004, from Georges Bohemier requesting that the application be adjourned to June 14, 2004
10. Petition and photographs submitted by David Fleury at the Public Hearing on June 14, 2004, purporting to contain the signatures of twelve (12) area residents in opposition to the application.
11. Photographs of the site submitted by Georges Bohemier

REPRESENTATIONS:

In Support:

Georges Bohemier
Jim Lothian

In Opposition:

David Fleury

For the City:

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

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

June 14, 2004
George Bohemier, the applicant, accompanied by Jim Lothian appeared in support of and provided an overview of the application. Mr. Lothian stated that they, the applicants, had canvassed area residents and the neighbouring church and had not received any negative feedback with respect to the application.

In response to a question from Councillor Angus, Mr. Lothian stated that a privacy fence would be constructed around the site to protect area residents and that traffic to the site, except for Manitoba Hydro vehicles, would not use Ulster Street but would traverse the Windsor Plywood lot. Councillor Angus stated that, should the application be approved, he would include a condition whereby approval of the application would be subject to conditions including the successful negotiation of an access agreement with Manitoba Hydro and the construction of a privacy fence.

David Fleury appeared in opposition to the application. Mr. Fleury stated that the residents in his building would be adversely affected should the application be approved and submitted photographs and a petition purporting to contain the signatures of twelve (12) area residents in opposition to the application (Exhibit 10). Mr. Fleury stated that area residents would be subjected to noise pollution, traffic congestion and decreased property values should the application be approved. In response to a question from Councillor Angus, Mr. Fleury indicted that the applicant had not contacted him with regards to the application.

In rebuttal, Mr. Lothian stated that he had attempted to contact all area residents to inform them of the application and that Mr. Fleury had visited Windsor Plywood on a number of occasions. Mr. Lothian further stated that the application would benefit the community as site in question is traditionally unkempt and has been used as a location to park and drink. Mr. Bohemier stated that the site would still be used by Manitoba Hydro but it would be fenced, gated and locked. Councillor Angus stated that he would be recommending that this application be approved, subject to a number of conditions, including the plans for the development being approved by the Riel Community Committee prior to the issuance of any permits.

May 18, 2004
No representations were heard inasmuch as the Riel Community Committee adjourned the Public Hearing with respect to this application prior to opening representations.

April 20, 2004
No representations were heard inasmuch as the Riel Community Committee adjourned the Public Hearing with respect to this application prior to opening representations.

Exhibit “6” referred to in File DAZ 205/2004

In reply please refer to / Référence à rappeler : **Kevin Lalor**
(204) 986-5069
Fax / Téléc. : (204) 986-7524

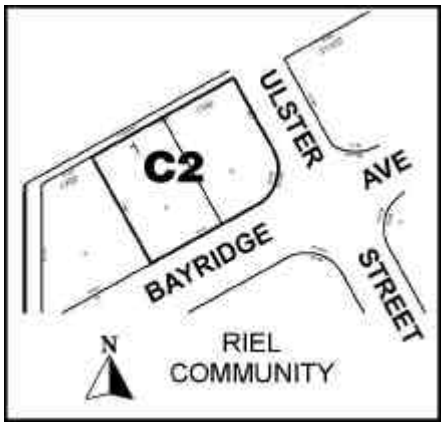
File No. DAZ 205 /04 April 12, 2004
Our c/f CP 500 (. 615)

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

Dear : Mr. Pittet

REZONING
Location: N. W. corner of Baybridge and Ulster
Riel Community Committee
File No. DAZ 205 /04

An application has been received from George Bohemier on behalf of Frontier Toyota, to amend By-Law No. 6400/94 by rezoning the land shown below from an “RM-2” Multiple Family District to a “C2” Commercial District to allow for the establishment of a storage/sales area for building supplies, hardware and related equipment.



RELATED FILES:

SITE DESCRIPTION:

Site Area: The overall area of the property totals approximately 30,000 sq. ft.

Existing Land Use and Zoning:

The land in question is currently zoned for multiple family (RM-2) development but remains vacant.

Surrounding Land Use and Zoning:

North: To the north are the largely vacant Smart Park lands owned by the University of Manitoba and zoned MP-2 Industrial.
South: To the immediate south is a large church zoned RM-2 Multiple Family.
East: To the immediate west is a Hydro station zoned RM-2 Multiple Family. To the west of that is Windsor Plywood zoned C2 Commercial.
West: To the east across Ulster St. are several medium to large housing complexes zoned RM-2 Multiple and a relatively large number of single family homes similarly zoned RM-2 Multiple Family.

DEVELOPMENT DESCRIPTION:

The owners of the subject land want to rezone the subject land to a commercial category in order to allow a new prospective buyer, Windsor Plywood, the right to establish and maintain a lumber and hardware products sales and storage area. The proposed use would be consistent with and a expansion of the existing plywood business at 2634 Pembina. To provide access, Windsor Plywood would extend a gravel road connection from their existing location through to the existing partially improved gravel right of way, which is Bayridge, which provides current access to the Hydro site. The site is to fully enclosed by a fence and access would be directly off of Bayridge. As indicated, business hours are to be restricted to between 8:00 AM – 5:00 PM Monday to Friday with light retail sales on Saturday and Sunday. The applicants have indicated that there will be no vehicle traffic allowed from the site onto Ulster St.

PLAN WINNIPEG:

There is no conflict with Plan Winnipeg. The site falls within a designated Neighbourhood Policy Area which allows for applications to commercial development to be processed and heard by the Community Committees.

ADMINISTRATIVE COMMENTS:

Its not unusual for successful businesses like Windsor Plywood to outgrow their existing locations and that appears to be the case here. One only has to drive past and examine their existing site for it to become readily apparent that they have run out of outdoor/indoor storage space for lumber and other associated products. Therefore it is entirely understandable why they wish to locate their storage areas to the rear of their premises. And on occasion, this department will endorse what is usually a reasonable expansion of a commercial property into a

neighbouring residential area. In some instances those expansions are supported by neighbouring residential property owners; and at other times they are not which can result in a business having to ultimately relocate to an alternate larger site. This proposal does not constitute the expansion of an existing commercial site in the conventional sense; it proposes the creation of a new commercial site on a non accessory piece of land one hundred and fifty feet from the parent business. While the applicants have indicated that they would someday like to acquire and consolidate the Hydro parcel, there is nothing to suggest at this point that that will ever happen.

Therefore, from a planning and land use perspective, what the adjoining neighbourhood is faced with is a large, unsightly commercial site which will encroach well into the residential area and will generate a significant level of activity. Of most concern, is the issue of potential truck traffic on Ulster St. In spite of the applicants assurances, Bayridge and Ulster are public rights of way serving the Hydo site and the residential areas and it concerns us that they could be used periodically by heavy vehicles looking to more easily access the proposed storage site. It is therefore the view, of the Planning and Land Use Division, that the proposed use of the subject property at the NW corner of Bayridge and Ulster is not an appropriate use of the land in question. It is therefore recommended that your Committee retain the existing residential zoning and reject the proposed change to a commercial category.

RECOMMENDATION:

I. That the proposed amendment to By-law 6400/94 to rezone the subject land as shown on Schedule “A”, for file DAZ 205/04, attached hereto and dated April 12, 2004, to a “C2” Commercial District NOT be approved..

Final

Yours truly,

C. Knoll
Manager of Planning and Land Use

_____

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

/jc

By-Law No. _____

File No. **DAZ 205/04**

Atlas Sheet No. **AL24**
RIEL COMMUNITY

N

Explanation

A proposed zoning change to By-Law 6400/94 by rezoning the land located on the north west corner of Bayridge Avenue and Ulster Street from an "RM-2" MULTIPLE-FAMILY DISTRICT to a "C2" COMMERCIAL DISTRICT as shown outlined below.



Schedule "A" for File No. DAZ 205/04, Riel Community Committee, dated April 12/04

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____