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

Item No. 9 Zoning Agreement Amendment - West side of St. Anne's Road between Compark Road and Southglen Boulevard File ZAA 10/2004 [c/r DASZ 40/85A]

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 Zoning Agreement Caveat No. 249458 under File DASZ 40/85A dated February 5, 1986 (By-law No. 4314/86) be amended as follows:

   A. Clause 2 be amended to read:

      "No buildings shall be constructed, erected or placed within fifty (50) feet of the west property line of the land, within fifty (50) feet of the south property line of the land, within twenty-five (25) feet of the north property line of the land and that there be a zero setback for buildings along the east property line of the land.

   B. Clause 4 be amended to read:

      "Not more than five (5) permanent free standing pylon signs may be located anywhere on the land."

   C. Clause 5 be amended to read:

      "The land and any building or structure thereon shall not be used for any of the following uses

      i. plumbing or sheet metal shops;

      ii. hotels, and

      iii. public garages, including facilities for repair or painting or upholstering of motor vehicles.

   D. Clause 10 be deleted entirely.

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E. That the following conditions be complied with and reflected in the final plans to be submitted for the approval of the Riel Community Committee, namely:

i. That of the three (3) proposed accesses to the site from Compark Road, the middle approach be eliminated.

ii. That the applicant be requested to install and maintain a six (6) foot high concrete wall along the entire length of the west property line.

F. That the applicant enter into a Servicing Agreement with the City to provide for the following:

i. That a pedestrian sidewalk be constructed on the south side of Compark Road between the northwest and northeast corners of the subject property, at the applicant's expense.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 40/85A (By-law No. 4314/86) dated February 5, 1986, 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.

Agenda - Council - July 21, 2004

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 submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July, 9, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee, amended as follows, namely:

- Delete Recommendation 1. E. i. in its entirety and renumber the balance of the recommendations accordingly

- Add recommendation 1. F. i. as follows:

    1.F. That the applicant enter into a Servicing Agreement with the City to provide for the following:

        i. that a pedestrian sidewalk be constructed on the south side of Compark Road between the northwest and northeast corners of the subject property, at the applicant's expense,

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

COMMUNITY COMMITTEE RECOMMENDATION:

On June 14, 2004, the Riel Community Committee concurred in the administrative recommendation with the following amendments, namely:

- Delete Recommendation 1.A. in its entirety and replace with the following:

    1.A. Clause 2 be amended to read:

    "No buildings shall be constructed, erected or placed within fifty (50) feet of the west property line of the land, within fifty (50) feet of the south property line of the land, within twenty-five (25) feet of the north property line of the land and that there be a zero setback for buildings along the east property line of the land."

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

DECISION MAKING HISTORY (continued):

- Add the following as Recommendation 1.E:

    1.E. That the following conditions be complied with and reflected in the final plans to be submitted for the approval of the Riel Community Committee, namely:

    A pedestrian sidewalk be constructed on the south side of Compark Road between the northwest and northeast corners of the subject property, at the applicant's expense.

    i. That of the three (3) proposed accesses to the site from Compark Road, the middle approach be eliminated.

    iii. That the applicant be requested to install and maintain a six (6) foot high concrete wall along the entire length of the west property line,

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

RE: **Zoning Agreement Amendment - West side St. Anne's Road, between Compark Road and Southglen Boulevard**
File ZAA 10/2004

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 concurred in the administrative recommendation, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement Caveat No. 249458 under File DASZ 40/85A, dated, February 5, 1986 (By-law No. 4314/86), be amended as follows:

    A. Clause 2 be amended to read:

    "No buildings shall be constructed, erected or placed within fifty (50) feet of the west property line of the land, within fifty (50) feet of the south property line of the land, within twenty-five (25) feet of the north property line of the land and that there be a zero setback for buildings along the east property line of the land.

    B. Clause 4 be amended to read:

    "Not more than five (5) permanent free standing pylon signs may be located anywhere on the land."

    C. Clause 5 be amended to read:

    "The land and any building or structure thereon shall not be used for any of the following uses

    i. plumbing or sheet metal shops;

    ii. hotels, and

    iii. public garages, including facilities for repair or painting or upholstering of motor vehicles.

    D. Clause 10 to be deleted entirely.

E. That the following conditions be complied with and reflected in the final plans to be submitted for the approval of the Riel Community Committee, namely:

i. A pedestrian sidewalk be constructed on the south side of Compark Road between the northwest and northeast corners of the subject property, at the applicant's expense.

ii. That of the three (3) proposed accesses to the site from Compark Road, the middle approach be eliminated.

iii. That the applicant be requested to install and maintain a six (6) foot high concrete wall along the entire length of the west property line.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 40/85A (By-law No. 4314/86), dated, February 5, 1986 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.

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 from the Manager of Planning and Land Use dated June 7, 2004.

PUBLIC HEARING SUMMARY

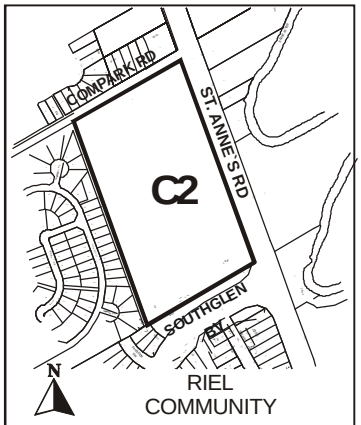
File: ZAA 10/2004

Before: Riel Community Committee
Councillor Angus, Chairperson
Councillor Steeves

Public Hearing: June 14, 2004
St. Norbert Community Centre, 3450 Pembina Highway

Applicant: N. D. LEA Engineers and Planners Inc. (Donavan Toews)

Subject:



APPLICANT: ND LEA
FILE: ZAA 10/04
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above by deleting Clauses 2 and 4 through 10 of the above referenced Zoning Agreement. Clause 3 will be retained which requires consent approval by the Community Committee for any Schedule "A" Plan Approval. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : ND LEA
RÉFÉRENCE : MCZ 10/04
PROJET : Projet de modification de la convention de zonage touchant le bien-fonds délinéé ci-dessus et visant à abroger la disposition 2 ainsi que les dispositions 4 à 10. La disposition 3 sera maintenue. Cette disposition exige que le Comité municipal entérine l'approbation de l'annexe A du plan. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: West side St. Anne's Road, between Compark Road and Southglen Boulevard

Exhibits Filed:

1. Application dated April 26, 2004
2. Notification of Public Hearing dated April 30, 2004
3. Manitoba Status of Titles 1233770 and 1428952
4. Letter of authorization dated January 29, 2004, from 71512 Manitoba Inc. to N D LEA
5. Zoning Agreement Caveat for DASZ 40/85A
6. Plans (3 pages)
7. Report from the Manager of Planning and Land Use dated June 7, 2004
8. Inspection Report
9. Plans dated June 14, 2004 submitted by Donavan Toews at the Public Hearing on June 14, 2004 (2 pages)

REPRESENTATIONS:

In Support:

Michael Nozick
Jerry Pilipowicz
Christopher Redd
Donavan Toews

In Opposition:

Debbie Atchison
D. Cauldwell
Judy Cole
Linda Gallant
Bill Hasenpflug
Sheila and Philip Liang
Georgina M. Lowen
Marian Polansky
Heather Smith
Bonnie Stark
Anne and Tom Wylie

For the City:

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

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

3106

The applicant, Donavan Toews, N. D. LEA Engineers and Planners Inc., accompanied by Michael Nozick, Fairweather Properties, appeared in support of the application. Mr. Toews stated that invitations were sent to approximately sixty (60) area residents inviting them to an open meeting to discuss the application; said meeting was convened on June 2, 2004. Mr. Toews proceeded to provide an overview of the application and submitted preliminary site plans, filed as Exhibit 9.

Mr. Toews explained that the proposal was to develop the subject land as a "perimeter site" with landscape buffering along Compark Road, Southglen Boulevard and St. Anne's Road. Mr. Toews stated that the buildings on site would be "rear-loaded" and that loading activity would be infrequent. Mr. Toews also stated that the buffering along the property line adjacent to the mobile home park would be sound attenuating and fully landscaped. Mr. Toews further stated that plan approval is a requirement of the original zoning agreement and that plans for this site would have to be approved by the Riel Community Committee before the issuance of any building permits.

Mr. Toews iterated that the setbacks contained in the original zoning agreement were likely established to trigger a public hearing when the owners of the property decided to develop it. Mr. Toews explained that the primary purpose of the application is to reduce the set backs to make development of the commercial site viable while remaining sensitive to the concerns of area residents.

Mr. Toews stated that he was proposing to establish three (3) accesses to the site via Compark Road to ensure that traffic would disperse quickly without adversely affecting area residents but, if required, he would be willing eliminate the middle access. Mr. Toews stated that approval of the application by Council would result in improvements in St. Anne's Road and the installation of signal lights at the intersection of Southglen Boulevard and St. Anne's Road.

Linda Gallant appeared in opposition to the application. Ms. Gallant stated that the development would negatively impact traffic on Southglen Boulevard and Compark Road and that it would be preferred if the one hundred (100) foot buffer would remain. Councillor Steeves stated that the subject land was rezoned to a "C2" Commercial District in 1986 and if the setbacks are not reduced, it could force patrons to park on area streets. Ms. Gallant replied that if the setbacks remained, the development would be smaller resulting in less vehicles accessing the site.

Sheila Liang appeared in opposition to the application. Ms. Liang opposed the creation of any egress/ingress on Compark Road as she explained this would exasperate an already dangerous traffic situation and negatively impact parking on her street. Ms. Liang stated that she was concerned for the safety of her family as there is no sidewalk on Compark Road. Ms. Liang further stated that the development of this property would reduce the value of her property. Ms. Liang questioned how long it would take for the development to be completed, should it be approved

Debbie Acheson appeared in opposition to the application and reiterated concerns with respect to traffic. Ms. Acheson stated that that applicant had not notified her with regards to the public meeting that was held on June 2, 2004.

Bill Hassenfluk appeared in opposition to the application. Mr. Hassenfluk stated that he was not notified of the meeting with the applicants held on June 2, 2004. Mr. Hassenfluk further stated that access to the site was not needed from Southglen Boulevard or Compark Road. Mr. Hassenfluk iterated that reducing the setbacks would negatively impact his quality of life and that the site should be developed in a similar fashion to St. Vital Mall.

D. Cauldwell appeared in opposition to the application. Mr. Cauldwell stated that this site should not be developed before the St. Anne's Road has been twinned. Mr. Cauldwell also stated that he wants the development set back at least sixty (60) feet from the trailer park with a concrete fence built along the property line no higher than eight (8) feet high. Mr. Cauldwell iterated that he did not want the west side of the site to become a backlane nor did he want trucks to deliver on that side of the property.

Bonnie Stark appeared in opposition to the application and reiterated previous concerns regarding traffic and safety. Ms. Stark indicated that she would like to see an eight (8) foot high concrete fence built along the westerly property line to ensure adequate sound attenuation.

Marion Polanski appeared in opposition to the application. Ms. Polanski reiterated concerns raised by previous presenters and asked that the setbacks remain at one hundred (100) feet. Ms. Polanski asked what services the development could provide that are not already offered within a reasonable distance.

Georgina Loewen appeared in opposition to the application. Ms. Loewen reiterated concerns raised by previous presenters with respect to setbacks and traffic and stated that she was not notified of the meeting that was held on June 2, 2004.

Anne and Tom Wylie appeared in opposition to the application and indicated concurrence with the concerns raised by previous presenters in opposition to the application.

Heather Smith appeared for informational purposes. Ms. Smith stated that she resides at 103 Compark Road and would like a setback much larger than ten (10) feet along Compark Road. Ms. Smith indicated that the development would adversely affect the value of her property and stated that the City should not allow commercial development in such close proximity to residential homes. In response to a question from Councillor Angus, Ms. Smith stated that she would be supportive of a sidewalk being constructed along Compark Road.

Christopher Redd appeared for informational purposes. Mr. Redd stated that he would be supportive of the development provided a sidewalk is installed on Compark Road, traffic lights are installed on St. Anne's Road at Southglen Boulevard and parking is restricted on Southglen Boulevard and Compark Road. Mr. Redd explained that he would support the development as it would result in infrastructure improvements in the area.

Philip Liang appeared in opposition to the application. Mr. Liang stated that a condition of approval should be that the developer install a sidewalk on the non-residential side of Compark Road.

Judy Cole appeared in opposition to the application and reiterated concerns raised by previous presenters. Ms. Cole stated that, should the application be approved, adequate buffering must be incorporated in the site plan.

Donavan Toews and Michael Nozick returned in rebuttal. In response to a question from Councillor Angus, Mr. Toews explained that more ingress/egress points help facilitate traffic in and out of a commercial site. Mr. Toews stated that the twinning of St. Anne's Road is likely contingent on the development of this property and that the majority of traffic to the site would likely enter via St. Anne's Road.

In response to a question from Councillor Angus, Mr. Toews indicated that the developer would be obligated to install a sidewalk along St. Anne's Road. In response to a further question from Councillor Angus, Mr. Toews indicated that the installation of a pedestrian corridor from Compark Road to St. Anne's road would be a good idea.

Councillor Steeves summarized the concerns of area residents relative to traffic, parking, safety, ingress/egress and the buffering on the north, south and west sides of the subject property. In response to a question from Councillor Steeves, Mr. Nozick stated that he was sensitive to the concerns of area residents and would be willing to plant large fir trees along Compark Road, Southglen Boulevard and along the property line bordering the trailer park. Mr. Nozick further stated that all landscaping would be subject to the approval of the Riel Community Committee. Councillor Steeves indicated that the plans would have to include proper buffering and sound attenuation.

In response to a question from Councillor Steeves, the Senior Planner stated that a solid fence at least two (2) metres in height should be constructed along the westerly property line. The Senior Planner further stated that the setback along Southglen Boulevard should be at least fifty (50) feet. The Senior Planner explained that extensive landscaping on the north and south sides of the development would properly buffer area residents. In response to a further question from Councillor Steeves, the Senior Planner stated that an a concrete fence along the westerly property line would effectively attenuate sound from the proposed development but a variance would be required should the fence be any higher than six (6) feet.

In response to a question from Councillor Steeves, Mr. Toews stated that an access to the site via the trailer park would not likely be supported by area residents and is not reflected in the preliminary plans for the site.

Exhibit “7” referred to in File ZAA 10/2004

In reply please refer to / Référence à rappeler :

Name: Kevin Lalor
(204) 986-5069
Fax / Téléc. : (204) 986-7524

File No. ZAA 10 /04
Our c/f CP 500 (. 530)

June 7, 2004

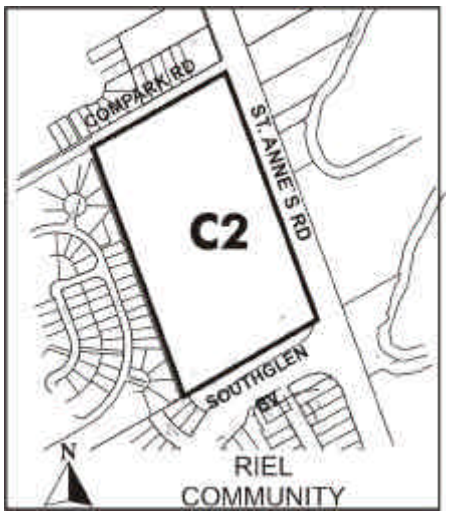
Marc Pittet,Clerk
Riel Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Mr. Pittet:

ZONING AGREEMENT AMENDMENT
Location: N.W. corner of Southglen/St. Anne’s Rd.
Riel Community
File No. ZAA 10/04

An application has been received from ND LEA, to amend the Zoning Agreement affecting the property shown below by deleting Clauses 2 and 4 through 10 of the referenced Zoning Agreement. Clause 3 will be retained which requires approval by the Community Committee for any Schedule “A” Plan Approval.

RELATED FILES:



3110

SITE DESCRIPTION:

Dimensions:
The subject site has approximately 960’ of frontage along St. Anne’s Road and has a depth of approximately 560’.

Site Area:
The overall site area totals approximately 12.3 acres.

Existing Land Use and Zoning:
The land has been vacant for many years except for a temporary bus turn-around located midway along the St. Annes frontage. It is zoned C2 Commercial.

DEVELOPMENT DESCRIPTION:

The owners of the land are proposing to fully develop the land for a range of commercial uses. The two primary buildings to occupy the site will each be in the neighbourhood of 50,000 sq. ft. of floor area eachand will be situated on the western half of the lot. At this time , we are unaware of who specifically the tenants will be but its apparent that at least one of the buildings will be , in all likelihood, occupied by a large food outlet. Two or three other smaller buildings, in the 4000-5000 sq. foot range are being proposed for the east half of the site along the St. Annes Rd. frontage. At least one of those will be a gas outlet with the possibility that a second could be a drive through restaurant. There is provision for over 600 parking stalls on the overall site. There are three primary exit and access points along St. Annes; an additional three along Compark Rd. and a single major access connection to Southglen Blvd. The applicants have applied for amendments to the original agreement dated 1986 which will effectively remove or modify many of the original conditions. For example ,the original agreement specified a minimum 100’ setback between any new principle buildings on site and the east , south and west property lines, with the following exceptions: a) a gas kiosk could be built anywhere within the most easterly 100’ of the lot along St. Annes Rd. b) a regular restaurant (no drive –thru) could be built at the S. E. corner of the site and c) a drive –in or drive thru restaurant could be built at the N. E. corner of the property. The applicants want those 100’ foot setbacks eliminated and simply the existing bulk regulations under the By-law adhered to. (In other words, a minimum 25’ rear setback for principal buildings along the west property line and a minimum 0’ along the north and south property lines.)

They also want more flexibility with respect to the siting of drive-thru restaurants on the overall site and they would like to have carwashes removed from the prohibited use list. In addition, the applicants want no restriction on the number of free standing signs on the site. The current limit is set at three (3) permanent free standing signs and two (2) mobile advertising signs. Finally, further requested amendments would eliminate the current hours of operation restrictions (no business to operate between 1:00 am and 7:00 am); would eliminate the requirement of the owner to install and maintain a solid fence along the west property line and ; would permit outdoor storage on the site.

ADMINISTRATIVE COMMENTS:

For almost twenty years the subject commercial property has sat vacant essentially waiting for neighbouring areas to the south and east to fully develop into residential communities thereby creating a market for any new businesses that might choose to locate to the corner in question. With the construction of the new bridge at Southglen and the opening up of the areas east of the Seine River, the owners now apparently feel that the time is right to begin attracting new business to the site. Relatively detailed plans have been submitted that clearly indicate that development is imminent and that is about to take place subject, of course, to the Riel Community Committee endorsing the final site plans. An amendment application is before the Riel CC, because the owners feel that the original agreement was to restrictive and should be modified in several areas. The Planning and Land Use Division is of the view that some of the requested changes are valid and that several of the original clauses can be deleted or modified without there being an adverse effect on the adjoining neighbourhood. For example, a 50' setback to principal buildings along the west property line would probably suffice to meet minimum development requirements and provide enough room to provide adequate fencing and landscaping as a buffer between Mobile Home Park residents and proposed new commercial development. Similarly a 50' setback should suffice along the south boundary of the property but with , once again, extensive landscaping provided along the Southglen frontage. There is no need to impose any more than a 50' setback to principle buildings along the easterly frontage (once again with extensive landscaping provided) and there should definitely not be any restrictions on where within that area, a drive-thru restaurant is sited. While there are no previously stated building setback requirements along Compark Rd., it is our recommendation that a 25' landscaped (trees) & bermed area be established and maintained along this most northerly property line. This to both enhance the rear of proposed new buildings in that area and to satisfy several of the concerns raised by property owners along Compark Rd. Further to their concerns,we agree that there are to many approaches off of Compark onto the site; it is our recommendation that the final Schedule "A"plans reflect a deletion of at least one of the approaches to the site currently identified along Compark Rd.

We do not oppose the removal of carwashes and drive-in and /or drive-thru restaurants from the list of prohibited uses. They are conditional uses under the new by-law and are therefore not permitted outright under the existing C2 zoning. The other listed restricted uses , such as hotels, public garages, metal shops etc. should remain as prohibited uses. On the matter of signs, we would suggest that a maximum five (5) free standing pylon signs instead of the current allowable three (3) is probably an acceptable number, given the overall size of the property. Finally this Department will not support the current conditions outlined with respect to hours of operation, outside storage or the owners obligation to construct and maintain a solid fence along the west property line.

RECOMMENDATION:

I. That the Zoning Agreement Caveat No. 249458 under file no. DASZ 40/85A, dated, February 5/86 (By-Law # 4314/86), be amended as follows: A) Clause 2 be amended to read" No buildings shall be constructed, erected or placed within 50 feet of the west

property line of the land, within 50 feet of the east property line of the land , within 50 feet of the south property line of the land and within 25 feet of the north property line of the land.B) Clause 4 be amended to read " Not more than five (5) permanent free standing pylon signs may be located anywhere on the land. C) Clause 5 be amended to read " The land and any building or structure thereon shall not be used for any of the following uses I) plumbing or sheet metal shops 2) hotels and 3) public garages,including facilities for repair or painting or upholstering of motor vehicles. D) Clause 10 to be deleted entirely.

II. That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 40/85A (By-Law # 4314/86), dated, February 5/86 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,

C. Knoll
Manager of Planning and Land Use

_____

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

/jc