Agenda - Council – November 24, 2004

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

Item No. 2 Zoning Agreement Amendment - 875 Dakota Street
File ZAA 16/2004 [c/r DAZ 205/2000]

STANDING COMMITTEE RECOMMENDATION:

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

1. That Zoning Agreement Caveat No. 2547945 (File DAZ 205/2000) dated August 19, 2000, (By-law No. 7667/2000) be approved by amending Clause 5 to permit an accessory structure (antenna) with a maximum height of twenty-five (25) feet above grade.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 205/2000 (By-law No. 7667/2000) dated August 19, 2000, 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.

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

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 17, 2004, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 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 October 18, 2004, the Riel Community Committee concurred in the administrative recommendation contained in the revised report from the Manager of Planning and Land Use dated October 18, 2004, and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment - 875 Dakota Street**
File ZAA 16/2004

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

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

Report date: **October 20, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On October 18, 2004, the Riel Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement Caveat No. 2547945 (File DAZ 205/2000) dated August 19, 2000, (By-law 7667/2000) be approved by amending Clause 5 to permit an accessory structure (antenna) with a maximum height of twenty five (25) feet above grade.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 205/2000 (By-law 7667/2000) dated August 19, 2000, 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 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 October 18, 2004.

PUBLIC HEARING SUMMARY

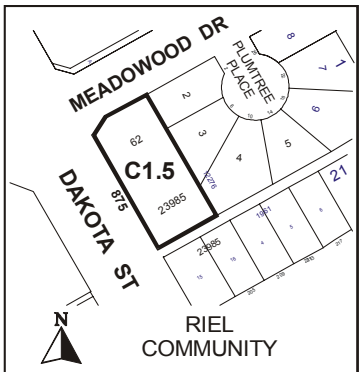
File: ZAA 16/2004

Before: Riel Community Committee
Councillor Angus, Chairperson
Councillor Magnifico
Councillor Steeves

Public Hearing: October 18, 2004
St. Norbert Community Centre, 3450 Pembina Highway
September 21, 2004
Community Committee Chamber, 604 St. Mary's Road

Applicant: WI Band Communications

Subject:



APPLICANT: WI BAND COMMUNICATIONS
FILE: ZAA 16/04
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above to permit the erection of accessory structures (antennas) to a height of 45 feet above grade instead of a maximum of 15 feet in height as stipulated in the agreement. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : WI BAND COMMUNICATIONS
RÉFÉRENCE : MCZ 16/04
PROJET : Modification de la convention de zonage touchant le bien-fonds délinéé ci-dessus en vue de permettre l'érection d'une structures annexe (antennes) d'une hauteur de 45 pieds au-dessus du sol au lieu d'une hauteur maximale de 15 pieds, ainsi que le prévoit la convention. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 875 Dakota Street

Exhibits Filed:

1. Application dated July 27, 2004
2. Notification of Public Hearing dated August 25, 2004
3. Manitoba Status of Title 1837102
4. Surveyor's Building Location Certificate and Sketch undated
5. Letter of authorization dated July 19, 2004 from Alain J. Hogue to La Caisse Populaire St. Boniface
6. Zoning Development Information
7. Plans (3 pages)
8. Report from the Manager of Planning and Land Use dated September 14, 2004
9 Inspection Report
10. Communication dated September 17, 2004, from Marc Lavoie requesting that the application be adjourned to October 18, 2004
11. Revised Report from the Manager of Planning and Land Use dated October 18, 2004
12. Photographs of the proposed antenna submitted by Marc Lavoie at the Public Hearing on October 18, 2004

REPRESENTATIONS:

In Support:

Marc Lavoie
Bernie Marcoux

In Opposition

Harry Humby
Otto So

For the City:

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

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

October 18, 2004
Marc Lavoie and Bernard Marcoux appeared in support of the application. Mr. Marcoux stated that a successful test was performed with an antenna measuring approximately ten (10) feet in length that will satisfy the needs of the Caisse Populaire. Mr. Marcoux submitted pictures of the antenna (Filed as Exhibit 12) and explained that the height required would only be to a maximum of twenty-five (25) feet above ground level.

Mr. Lavoie stated that he had met with area residents who had indicated that they would not oppose the application if the antenna was moved. Mr. Lavoie explained that, due to existing trees and sight lines, the location of the antenna could not be moved.

September 21, 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 "11" referred to in File ZAA 16/2004

In reply please refer to / Référence à rappeler :

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

File No. ZAA 16 /04
Our c/f CP 500 (. 530)

October 18, 2004

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

REVISED

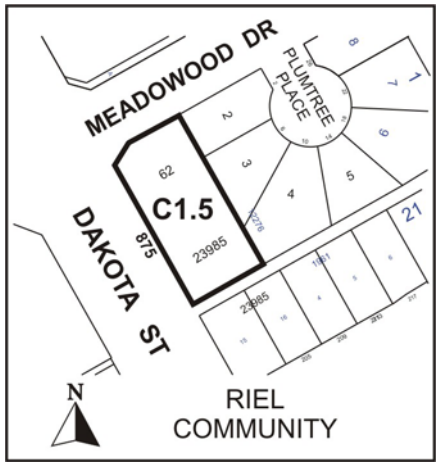
Dear: Mr. Pittet:

ZONING AGREEMENT AMENDMENT
Location : 875 Dakota
Riel Community

File No. ZAA 16/04

An application has been received from W1 Band Communications, to amend the Zoning Agreement affecting the property shown below by amending Clause 5 in order to permit accessory structures (antennas) with a maximum height of 45 feet above grade.

RELATED FILES:



3020

SITE DESCRIPTION:

Dimensions:

The subject property has 100 feet of frontage along Meadowood Drive and 200 feet of frontage along Dakota Street.

Site Area:

The overall site area is approximately one half acre in size.

Existing Land Use and Zoning:

The primary use on the site at the present time is a Caisse Populaire Banking outlet with accessory drive-thru facility.

DEVELOPMENT DESCRIPTION:

The applicant Wi Band Communications, is proposing to install a 30' high (1' wide) telecommunications tower atop the Caisse Populaire Banking facility at 875 Dakota St. The tower, if established will actually, attain a height of 45' given that it rests atop a 15' high existing commercial building. The tower will be supported by guy wires which will connect the structure to the roof at a number of locations.

ADMINISTRATIVE COMMENTS:

When the subject lands were recently zoned to a C1-5 Commercial category, there was significant opposition to the project from neighbouring residents. The rezoning was ultimately approved by the Riel Community Committee but there was a highly restrictive zoning agreement put in place which restricted use of the site to only a handful of commercial uses and which required extensive landscaping and fencing to soften the impact of the building on adjoining residential properties immediately to the east and south. It was also clearly stipulated that no structure on the site should be allowed to exceed fifteen (15) feet in height given the narrowness of the existing commercial lot and its proximity to residential homes. The applicants have asked by way of this zoning agreement amendment application that the necessary clauses be amended to allow for a tower which attain a height overall of 45' above grade. The Caisse Populaire hopes to install this new telecommunications on all of its current thirty one (31) facilities throughout the Province. Currently a number of these telecommunications towers have already been installed or approved for installation and in many instances, all that is required is a development permit if the banking facility is located on a zoned C2 site which a) permits as of right, telecommunications towers b) has a maximum 45' height restriction and c) has no restrictive zoning agreement in place restricting structures of this size. In most instances, the towers would not pose a problem for adjoining residences or property owners and this Dept. would not have any objections to the issuance of the necessary development permits. That is not the case , however, as it relates to the subject site. The neighbouring residents reluctantly, at best , endorsed the original change in use but attached a list of minimum conditions which , in their view , had to be adhered to, if the two interests were to live in relative harmony. The restriction placed on height for all structures was one of those crucial conditions. In this instance, at least, this Dept., is of the view, that to approve the suggested amendment, would have a legitimate

adverse effect on the existing adjacent property owners and would not be in their best interests. It is therefore recommended that the proposed amendment not be supported by your Committee.

ADDENDUM TO THE ADMISTRATIVE COMMENTS:

In the intervening time since the original application was made and submitted to your Committee for review, the applicants have experimented with a modified communications antenna which is only ten feet high at most. As indicated in the accompanying pictures , a narrow 5' high antenna (no wider than a broom pole) will rest atop an approximately 5' high tripod. The antenna is to affixed on the south side of the existing building, at the singular location where it effectively works. The Planning Department is of the view that the applicant has succeeded in designing a communications antenna which fulfils the needs of the Caisse Populaire and does not have an aesthetic adverse effect on the surrounding neighbourhood. This Department is therefore able to endorse a revised recommendation for an accessory structure (antenna) which will have a maximum height of 25' above grade instead of the 45' as originally requested.

RECOMMENDATION:

I. That the Zoning Agreement Caveat No. 2547945 under file no. DAZ 205/2000 , dated August 19/2000 (By-Law 7667/2000) to amend clause 5 to permit an accessory structure (antenna) with a maximum height of 25' above grade, be approved.

II. That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 205/2000 (By-Law 7667/2000) dated August 19/2000as 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.

Yours truly,

C. Knoll
Manager of Planning and Land Use

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

/jc

3022

Exhibit "8" referred to in File ZAA 16/2004

In reply please refer to / Référence à rappeler :

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

File No. ZAA 16 /04
Our c/f CP 500 (. 530)

September 14, 2004

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

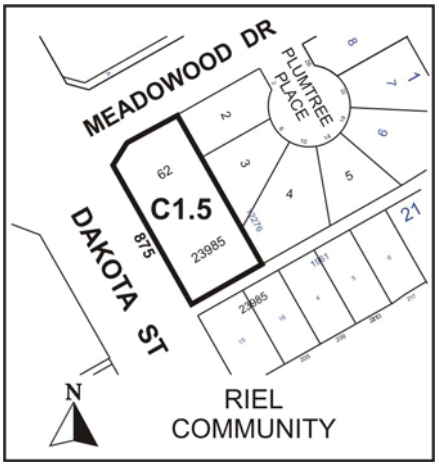
Dear: Mr. Pittet:

ZONING AGREEMENT AMENDMENT
Location: 875 Dakota
Riel Community

File No. ZAA 16/04

An application has been received from W1 Band Communications, to amend the Zoning Agreement affecting the property shown below by amending Clause 5 in order to permit accessory structures (antennas) with a maximum height of 45 feet above grade.

RELATED FILES:



SITE DESCRIPTION:

Dimensions:

The subject property has 100 feet of frontage along Meadowood Drive and 200 feet of frontage along Dakota Street.

Site Area:

The overall site area is approximately one half acre in size.

Existing Land Use and Zoning:

The primary use on the site at the present time is a Caisse Populaire Banking outlet with accessory drive-thru facility.

DEVELOPMENT DESCRIPTION:

The applicant Wi Band Communications, is proposing to install a 32' high (1' wide) telecommunications tower atop the Caisse Populaire Banking facility at 875 Dakota St. The tower, if established will actually, attain a height of 42' given that it rests atop a 12' high existing commercial building. The tower will be supported by guy wires which will connect the structure to the roof at a number of locations.

ADMINISTRATIVE COMMENTS:

When the subject lands were recently zoned to a C1-5 Commercial category, there was significant opposition to the project from neighbouring residents. The rezoning was ultimately approved by the Riel Community Committee but there was a highly restrictive zoning agreement put in place which restricted use of the site to only a handful of commercial uses and which required extensive landscaping and fencing to soften the impact of the building on adjoining residential properties immediately to the east and south. It was also clearly stipulated that no structure on the site should be allowed to exceed twelve (12) feet in height given the narrowness of the existing commercial lot and its proximity to residential homes. The applicants have asked by way of this zoning agreement amendment application that the necessary clauses be amended to allow for a tower which attain a height overall of 45' above grade. The Caisse Populaire hopes to install this new telecommunications on all of its current thirty one (31) facilities throughout the Province. Currently a number of these telecommunications towers have already been installed or approved for installation and in many instances, all that is required is a development permit if the banking facility is located on a zoned C2 site which a) permits as of right, telecommunications towers b) has a maximum 45' height restriction and c) has no restrictive zoning agreement in place restricting structures of this size. In most instances, the towers would not pose a problem for adjoining residences or property owners and this Dept. would not have any objections to the issuance of the necessary development permits. That is not the case , however, as it relates to the subject site. The neighbouring residents reluctantly, at best , endorsed the original change in use but attached a list of minimum conditions which , in their view , had to be adhered to, if the two interests were to live in relative harmony. The restriction placed on height for all structures was one of those crucial conditions. In this instance, at least, this Dept., is of the view, that to approve the suggested amendment, would have a legitimate

adverse effect on the existing adjacent property owners and would not be in their best interests. It is therefore recommended that the proposed amendment not be supported by your Committee.

RECOMMENDATION:

I. That the proposed Zoning Agreement Amendment attached to DAZ 205/2000 , dated August 19/2000 (By-Law 7667/2000) to amend condition no. 5 to permit accessory structures (antennas) with a height of 45' above grade, NOT be approved.

Final

Yours truly,

C. Knoll
Manager of Planning and Land Use

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

/jc