Agenda - Council - November 24, 2004

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

Item No. 7 Rezoning - 444 St. Anne's Road
File DAZ 253/2004

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, as amended, and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 253/2004 dated October 11, 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. The rezoning shall include all uses within the "C1" Commercial District, as listed under The Winnipeg Zoning By-law No. 6400/94, and shall include only the following use within the "C2" Commercial District as listed under The Winnipeg Zoning By-law No. 6400/94:

            a. Drive through

        ii. That the development be constructed and located in accordance with the plans identified as Sheet Nos. 1, 2, 3 and 4, dated October 18, 2004, and maintained thereafter to the satisfaction of the Director of Planning, Property and Development.

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 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.

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

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.

Agenda - Council - November 24, 2004

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, as amended, 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 with the following amendments, namely:

- Recommendation 1.A.i.
  Add the words "as listed under The Winnipeg Zoning By-law No. 6400/94" after the words "C1" Commercial District and "C2" Commercial District

- Recommendation 5
  Delete the words "as a first charge" in the second line,

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 revised administrative recommendation dated October 18, 2004, and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 444 St. Anne's Road**
File DAZ 253/2004 [c/r DAV 323333/2004D and DCU 323333/2004D]

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 contained in the report of the Manager of Planning and Land Use dated October 18, 2004, and recommends to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 253/2004 dated October 11, 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. The rezoning shall include all uses within the "C1" Commercial District and shall include only the following use within the "C2" Commercial District

            a. Drive through

        ii. That the development be constructed and located in accordance with the plans identified as Sheet Nos. 1,2,3 and 4, dated October 18, 2004, and maintained thereafter to the satisfaction of the Director of Planning, Property and Development.

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 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 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 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

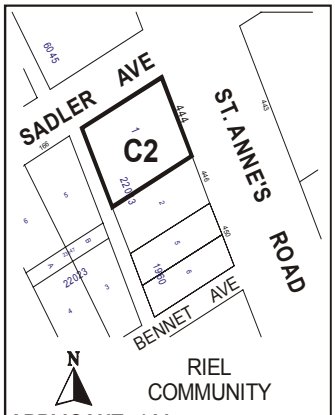
File: DAZ 253/2004 [c/r DAV 323333/2004D and DCU 323330/2004D]

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

Public Hearing: October 18, 2004
St. Norbert Community Centre, 3450 Pembina Highway

Applicant: L. M. Architectural Group (David Kressock)

Subject:



APPLICANT : LM ARCHITECTURAL GROUP
FILE : DAZ 253/04
PROPOSAL : To rezone the land shown outlined above from a "C1" COMMERCIAL DISTRICT to a "C2" COMMERCIAL DISTRICT. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
D E M A N D E U R : L M ARCHITECTURAL GROUP
N° DE DOSSIER : DAZ 253/04
PROJET : Rezonage des sols délinéés ci-dessus de sorte qu'ils passent de la catégorie C1 (SECTEUR COMMERCIAL) à la catégorie C2 (SECTEUR COMMERCIAL). Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.

Premises Affected: 444 St. Anne's Road

Exhibits Filed:

1. Application dated September 17, 2004
2. Notification of Public Hearing dated September 20, 2004
3. Manitoba Status of Title 1954522
4. Surveyor's Building Location Certificate and sketch dated July 13, 2004
5. Letter of authorization dated September 18, 2004 from Geoff Graham to David Kressock of L. M. Architectural Group
6. Plans (3 pages)
7. Report from the Manager of Planning and Land Use dated October 11, 2004
8. Revised report from the Manager of Planning and Land Use dated October 18, 2004
9. Plans dated October 18, 2004 (4 pages)
10. Inspection Report

REPRESENTATIONS:

In Support:

John Bockstael
Spencer Court
Geoff Graham
David Kressock

In Opposition

Nil

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

The applicant, David Kressock, appeared in support of and provided a brief overview of the application.

Exhibit "8" referred to in File DAZ 253/2004 [c/r DAV 3233333/2004D and DCU 323330/2004D]

In reply please refer to / Référence à rappeler : **Michael Robinson**
(204) 986-3213
Fax / Téléc. : (204) 986-7524

Revised

File No. DAZ 253/2004 October 18, 2004
Our c/f CP 500 (.517)

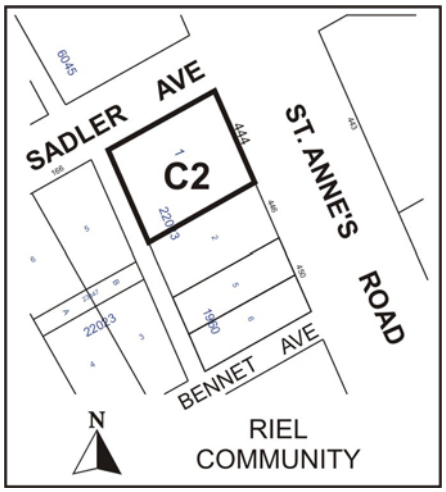
Marc Pettit, Clerk
Riel Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Mr. Pettit:

REZONING
444 St. Anne's Road
Riel Community
File No. DAZ 253/2004

An application has been received from David Kressock of LM Architects, to amend By-Law No. 6400/94 by rezoning the land shown below from a/an "C1" Commercial District to a "C2" Commercial District to allow for a drive through facility.

RELATED FILES:



SITE DESCRIPTION:

Site Area, Existing Land Use, and Zoning:
The subject property is zoned "C1" Commercial. It is adjacent to "C1" Commercial on the north, south, and east and single-family residential, zoned "R1-5" to the west. The site was occupied by a vacant single-family residence, which was recently torn down to make way for this development. The overall area is 8,275 square feet (.19 acres).

DEVELOPMENT DESCRIPTION:

The petitioner is proposing to construct a 2100 square foot commercial building on a ± 8,300 square foot lot at the intersection of St. Anne's Road and Sadler Avenue. The parcel is zoned C-1 Local Commercial. A single-family residence on the lot, which was vacant and in disrepair, was recently demolished and the lot cleared in anticipation of this development.

The new building will consist of two 1050 square foot units – the north unit will house the World of Water and the south unit will be reserved for a future tenant, which is unidentified at this time. Plans call for parking to be located in both the front and the back of the building, with a drive – through to be located on the north side of the building, along Sadler.

Drive-throughs are only permitted as a conditional use in the "C2" Commercial District – as well, as in higher intensity districts. Therefore, in order to permit the proposed drive-through, the property must be rezoned to "C2" Commercial

PLAN WINNIPEG:

The subject land lies within the Neighbourhood Policy Area which allows for all types of commercial zoning.

ADMINISTRATIVE COMMENTS:

The Planning and Land Use Division feels that the proposed rezoning should be recommended for several reasons. First, the parcel in question had, until very recently, a vacant, dilapidated single-family residence with a weedy, garbage-strewn lot. The proposed development will provide a new development which is in character with the surrounding area and will mitigate a past visual eyesore along a highly visible commercial corridor.

Secondly the applicant has attempted to develop a site plan that is sensitive to the surrounding neighbourhood, is visually appealing, and mitigates the impacts of the proposed drive through. For instance, the applicant will be installing a decorative wooden fence around the perimeter of the site – to define the drive aisle from the sidewalk. This fence, which will be 30" and planted with Virginia Creeper, will help buffer the drive through, screen the parking, and add visual interest to the site from Sadler and upon approach from the north and south along St. Anne's. The applicant is also installing a large, professionally designed planting bed to anchor the corner of St.Anne's and Sadler. Additionally, the applicant is adding a second planting bed along the property line adjacent to the front parking stalls. The combination of the landscaping and decorative fencing should create a positive focal point along the St.Anne's commercial strip.

It should be noted that while foundation landscaping was originally desired, it was determined by a landscape architect in the Planning and Land Use Division that the overhang on the building would shade out the successful growth of any plant material. In that vain, the planting beds and Virginia creeper were deemed to be adequate substitutes.

This establishment is "C1" in character and is surrounded by "C1" uses. Notwithstanding the drive-through use, everything that is proposed at this location can occur within the "C1" District. With that said, in order to preserve existing character and protect against over-intensification of this site in the future, we recommend approving the rezoning to "C2" Commercial but limiting it to the drive-through use only.

RECOMMENDATION:

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ /04, attached hereto and dated, 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:

1. This rezoning shall include all uses within the "C1" Commercial District and shall include only the following use within the "C2" Commercial District

a. Drive through

2. That the development be constructed and located in accordance with the plans submitted attached hereto and identified as Sheet Nos. 1,2,3 and 4, Exhibit 1 for File No. DAZ 253/2004 dated October 18, 2004; and maintained thereafter to the satisfaction of the Director of Planning, Property and Development.

II. That a ten (10) per cent 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.

III. 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.

IV. 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.

V. 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.

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

VII. 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.

_____
Michael Robinson, Planner

_____
J. East

_____
E. Axelrod

_____
E. Carriere (if Servicing Agreement)

Final

Yours truly,

C. Knoll
Manager of Planning and Land Use

_____
Per: Michael Robinson, Planner
(Riel Community)
986-3213

3114

Exhibit "8" referred to in File DAZ 253/2004 [c/r DAV 3233333/2004D and DCU 323330/2004D]

In reply please refer to / Référence à rappeler : **Michael Robinson**
(204) 986-3213
Fax / Téléc. : (204) 986-7524

File No. DAZ 253/2004 October 11, 2004
Our c/f CP 500 (.517)

Marc Pettit, Clerk
Riel Community Committee
Council Building
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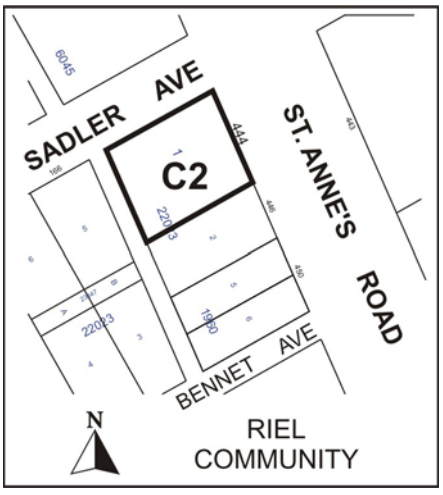

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Drive-throughs are only permitted as a conditional use in the "C2" Commercial District – as well, as in higher intensity districts. Therefore, in order to permit the proposed drive-through, the property must be rezoned to "C2" Commercial

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This establishment is "C1" in character and is surrounded by "C1" uses. Notwithstanding the drive-through use, everything that is proposed at this location can occur within the "C1" District. With that said, in order to preserve existing character and protect against over-intensification of this site in the future, we recommend approving the rezoning to "C2" Commercial but limiting it to the drive-through use only.

RECOMMENDATION:

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ /04, attached hereto and dated, 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:

      1. This rezoning shall include all uses within the "C1" Commercial District and shall include only the following use within the "C2" Commercial District

         a. Drive through

      2. That final plans indicating building locations, building profile details (including elevations), approaches, parking stalls, landscaping, fencing, lighting details, garbage enclosure locations, etc. be submitted to and approved by the Riel Community Committee and the Director of Planning and Land Use Division prior to the issuance of any building permits.

II. That a ten (10) per cent 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.

III. 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.

IV. 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.

V. 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.

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

VII. 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.

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Michael Robinson, Planner

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J. East

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E. Axelrod

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E. Carriere (if Servicing Agreement)

Final

Yours truly,

C. Knoll
Manager of Planning and Land Use

_____
Per: Michael Robinson, Planner
(Riel Community)
986-3213

By-Law No. _____

File No. **DAZ 253/04**

Atlas Sheet No.

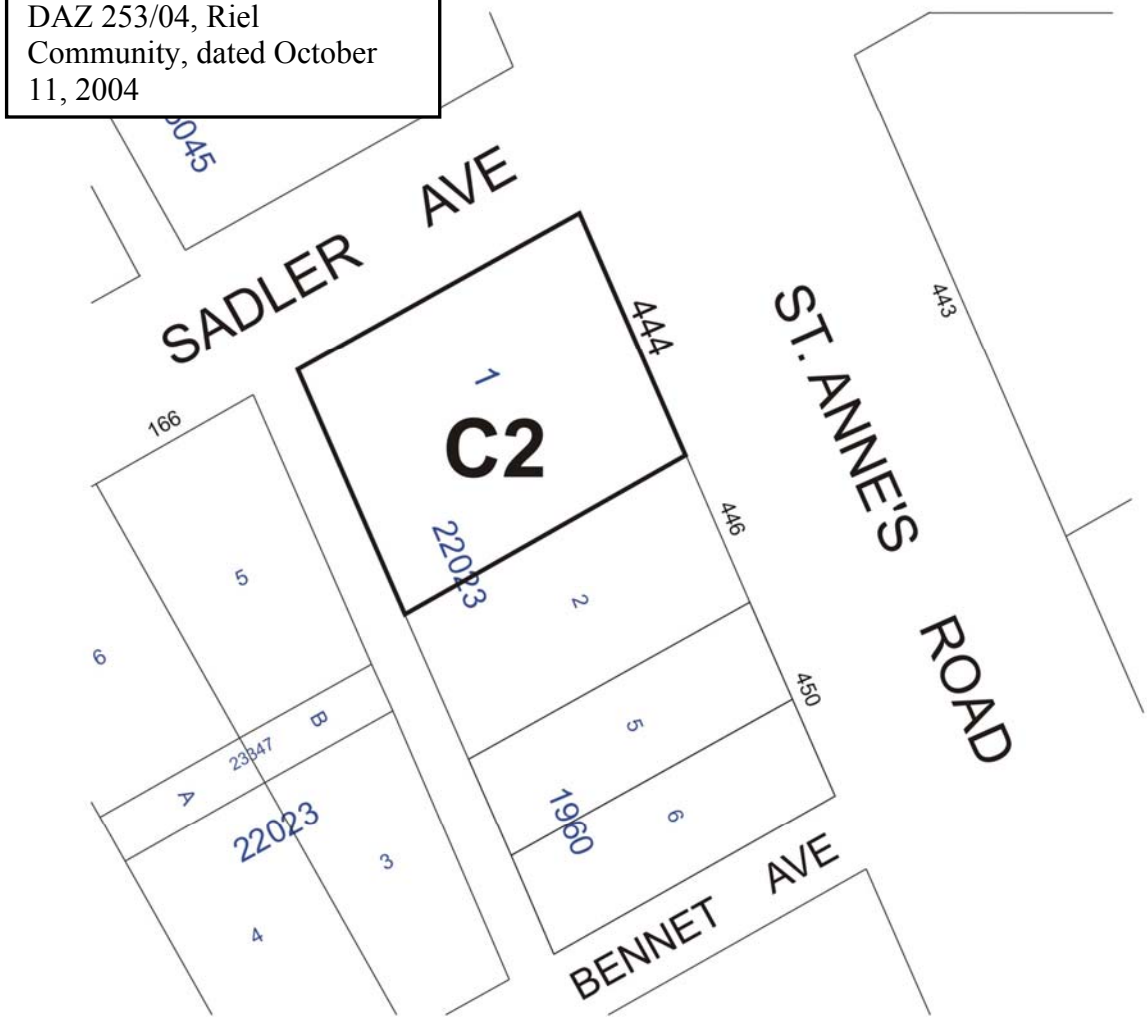
N

AF28
RIEL
COMMUNITY

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 444 St. Anne's Road from a "C1" COMMERCIAL DISTRICT to a "C2" COMMERCIAL DISTRICT as shown outlined below.

Schedule "A" for File No. DAZ 253/04, Riel Community, dated October 11, 2004



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____