Minute No. 26
Report - Standing Policy Committee on Property and Development – November 2, 2004

Item No. 1 Zoning Agreement Amendment - 210 - 220 Oakland Avenue
File ZAA 15/2004 [c/r DAZ 313/75]

COUNCIL DECISION:

Council concurred in the recommendations of the Standing Policy Committee on Property and Development and adopted the following:

1. That Zoning Agreement Caveat No. 245878 under File DAZ 313/75 dated April 6, 1977, (By-law No. 1325/76) be amended as follows:

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

      "2. The land and any building or structure thereon shall not be used for and no building or structure shall be erected, altered or enlarged on the land for any use except a senior citizens residence not exceeding thirteen (13) stories in height."

2. That Zoning Agreement Caveat No. 1638619 under File DAZ 313/75 dated September 1992 be deleted.

3. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 313/75 (By-law No. 1325/76) dated April 6, 1977, as approved in aforesaid Recommendation 1.

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

5. 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:

Moved by Councillor De Smedt,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

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 East Kildonan-Transcona 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 East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On October 5, 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 - 210 / 220 Oakland Avenue**
File ZAA 15/2004 [c/r DAV 123273/2004D]

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

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

Report date: **October 14, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On October 5, 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. 245878 under File DAZ 313/75 dated April 6, 1977, (By-Law No. 1325/76) be amended as follows:

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

   "The land and any building or structure thereon shall not be used for and no building or structure shall be erected, altered or enlarged on the land for any use except a senior citizens residence not exceeding thirteen (13) stories in height."

2. That the Zoning Agreement Caveat No. 1638619 under File DAZ 313/75 dated September, 1992, be deleted.

3. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 313/75 (By-Law No. 1325/76), dated April 6, 1977 as approved in aforesaid Clause I.

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

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

1. The addition of more seniors housing enables seniors to remain in the community.

PUBLIC HEARING SUMMARY

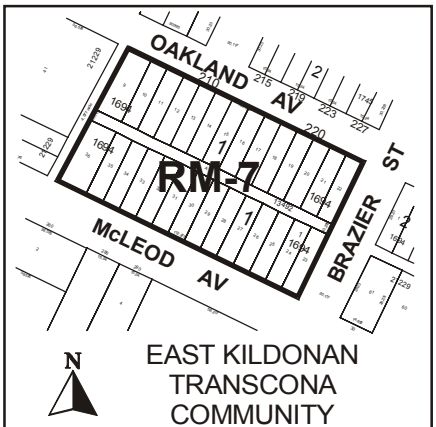
File: ZAA 15/2004 [c/r DAV 123273/2004D]

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

Public Hearing: October 5, 2004
September 14, 2004
Community Committee Chamber
755 Henderson Highway

Applicant: Ernie Abejuela, MMP Architects

Subject:



APPLICANT: MMP ARCHITECTS
FILE: ZAA 15/04
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above as follows: (1) to permit the expansion of a seniors residence not exceeding thirteen (13) stories in height instead of twelve (12) stories as permitted by the Agreement, and (2) to delete Clause 2 of the Zoning Agreement.
For information, phone Mr. J. Wintrup, Planner at 986-5102

Premises Affected: 210 / 220 Oakland Avenue

Exhibits Filed:

1. Application dated July 21, 2004
2. Notification of Public Hearing dated July 28, 2004
3. Manitoba Status of Title 1850074
4. Surveyor's Building Location Certificate and Sketch dated April 27, 2004
5. Letter of authorization dated April 15, 2004 from Miriam Bergen, President, Edison Rental, to Ernie Abejuela
6. Plans (6 pages)
7. Zoning Agreement DAZ 313/75
8. Report from the Manager of Planning and Land Use dated July 30, 2004
9. Inspection Report

REPRESENTATIONS:

In Support:

Blaine Repko, MMP Architects
Orest Sedun

In Opposition:

Walter Langelotz

For Information:

G. Roberts
Miriam Lovett
Alec Diakiw

For the City:

Mr. J. Wintrup, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

September 14, 2004

No representations were heard inasmuch as the East Kildonan-Transcona Community Committee adjourned the Public Hearing with respect to this application prior to opening representations.

October 5, 2004

Orest Sedun appeared in support of the application, and advised that there is a need for seniors housing in the area. In this connection, he further advised that four seniors suites will be added to the 13th floor of 220 Oakland Avenue.

Exhibit "8" referred to in File ZAA 15/2004 [c/r DAV 123273/2004D]

In reply please refer to / Référence à rappeler :

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

File No. ZAA 15 / 04 July 30, 2004
Our c/f CP 500 (.413)

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
210 / 220 Oakland Avenue
East Kildonan - Transcona Community Committee
File No. ZAA 15 / 04

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

RELATED FILES: DAZ 313/75, DAV 854/77, DAV 379/85, DAV 218/92,
DAV 04-123273D



SITE DESCRIPTION:

Dimensions: 367 feet by 206 feet (112 metres by 63 metres).

Site Area: 75,586 square feet (7022.194 square metres).

Existing Land Use and Zoning: Multiple Family Dwellings zoned "RM-7" Residential District.

DEVELOPMENT DESCRIPTION:

The applicant intends to construct four (4) additional units on the 13th floor of the existing multiple family dwelling at 220 Oakland. The applicant is also converting the former restaurant and patio space on the 13th floor at 210 Oakland into a recreational space for the residents of the building.

The building that is parallel to Brazier Street is 220 Oakland Avenue. The multiple family dwelling parallel to Oakland Avenue is 210 Oakland.

ADMINISTRATIVE COMMENTS:

By-law No. 1325/76 limits the senior's residential buildings to twelve (12) stories but allows a thirteenth (13th) story to be used only for a recreational room at 220 Oakland and a restaurant at 210 Oakland. In subsequent years, applications have been made to amend the agreement to allow an outdoor patio restaurant space on the 13th floor of 210 Oakland.

The applicant would like to add four (4) additional dwelling units on the thirteenth floor of 220 Oakland. These units will be constructed on the south side of the building whereas the north side will retain a pool room, recreational room, roof garden, and sun room.

The applicant states that the restaurant (Merteen's) at 210 Oakland has ceased operation and is now closed. The associated patio has also closed. The applicant would like to convert the restaurant space to a club/recreation room to service both 210 and 220 Oakland.

The Division supports the new dwelling units on the 13th floor of 220 Oakland. The agreement currently allows restaurants and recreational rooms on the 13th floors, which may have a greater impact than residential units on the surrounding neighbourhood. The Division also supports converting the restaurant to a recreational facility since the new use is an amenity that will serve the local buildings' residence. The applicant has a related variance for yards, density and height.

New Dwelling units 220 Oakland

For the addition of the dwelling units on the thirteenth floor, the applicant requires the following clauses, which restrict the 13th floors to recreational/restaurant uses and limits residential uses to twelve (12) stories, be ***deleted*** from the Zoning Agreement:

2) "The land and any building or structure thereon shall not be used for and no building or structure shall be erected, altered or enlarged on the land for any use except:

   a) a seniors' residence not exceeding twelve (12) stories in height, plus:

   b) an additional thirteenth (13) storey which shall be used only as
      i. recreation room space for residents of the building, or
      ii. as an alternative use within the thirteenth (13th) storey of the building commonly known as 210 Oakland Avenue, a restaurant or dining room not exceeding a gross floor area as 210 Oakland Avenue, a restaurant or dining room not exceeding a gross floor area of 292 square metres (3,150 square feet) and provided there is no exterior signage erected or maintained on the senior citizens residence building related to the restaurant or dining room other than one (1) facia sign not exceeding .74 metres (8 square feet) in area."

The Division is recommending that clause 2) a) be replaced with the following to restrict the multiple family dwellings to thirteen (13) stories instead of twelve (12):

a) a senior citizen's residence not exceeding thirteen (13) stories in height.

Conversion of Restaurant to Recreational Uses at 210 Oakland

In regards to the conversion of the restaurant:

A gym, swimming pool or lounge area within a multiple family dwelling for only the use of tenants within the building can be considered as 'accessory' to the multiple family dwelling. These uses are currently permitted under Zoning By-law 6400/94.

The recreational room can be constructed at 210 Oakland under the current agreement since it allows recreational uses on the 13th floor. The Division, however, is recommending that all clauses relating to the restaurant at 210 Oakland be deleted including reference to the outdoor patio.

2) The land and any building or structure thereon shall not be used for and no building or structure shall be erected, altered or enlarged on the land for any use except:

b) an additional thirteenth (13) storey which shall be used only as:

i. recreation room space for residents of the building, or

ii. as an alternative use within the thirteenth (13th) storey of the building commonly known as 210 Oakland Avenue, a restaurant or dining room not exceeding a gross floor area as 210 Oakland Avenue, a restaurant or dining room not exceeding a gross floor area of 292 square metres (3,150 square feet) and provided there is no exterior signage erected or maintained on the senior citizens residence building related to the restaurant or dining room other than one (1) facia sign not exceeding .74 metres (8 square feet) in area."

iii. as part of the alternative use described in clause (b) outdoor patio restaurant space not exceeding 111.48 square metes/1200 square feet of gross floor area (total permitted gross floor area of restaurant/dining room space on the 13th floor 404.115 square metres/4350 square feet) BUT that outdoor patio may be operated only up to September 30, 1995 on which date the maximum gross floor area of the 13th floor restaurant/dining space shall revert to 292 square metres/3150 square feet."

RECOMMENDATION:

A. That the Zoning Agreement Caveat No. 245878 under file no. DAZ 313/75, dated April 6, 1977 (By-Law # 1325/76) be amended as follows:

1) That paragraph 2 be deleted and substituted with the following:

"The land and any building or structure thereon shall not be used for and no building or structure shall be erected, altered or enlarged on the land for any use except a senior citizens residence not exceeding thirteen (13) stories in height."

B. That the Zoning Agreement Caveat No. 1638619 under file no. DAZ 313/75, dated September, 1992 be deleted.

C. That the City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 313/75 (By-Law # 1325/76), dated April 6, 1977 as approved in aforesaid Clause I.

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

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

F. 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

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



Figure 1: Air Photo of Subject Property and Surrounding Context

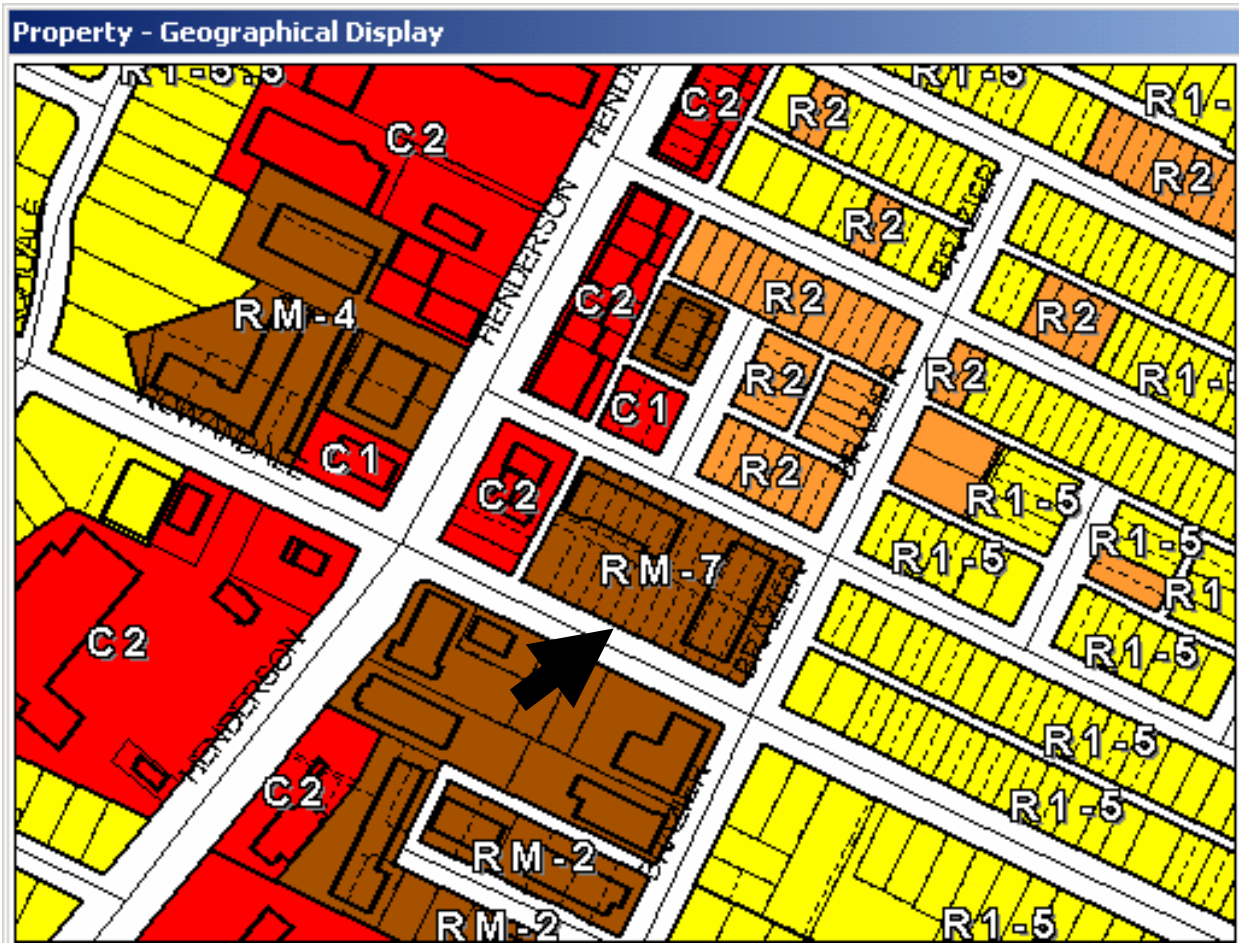


Figure 2: Zoning Map of Subject Property and Surrounding Context