Agenda - Council - February 23, 2005

Report - Standing Policy Committee on Property and Development - February 1, 2005

Item No. 8 Zoning Agreement Amendment - 561 St. Anne's Road
File ZAA 22/2004 (c/r DAZ 211/2000)

STANDING COMMITTEE RECOMMENDATION:

On February 16, 2005, 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 the Zoning Agreement Caveat No. 2553358 under File DAZ 211/2000 dated November 6, 2000, be amended by:

   A. Adding 'music instruction' to the list of permitted uses outlined in Clause 3 of the agreement; and

   B. Extending the hours of operation as follows:

      i. 7:00 a.m. to 10:00 p.m. Mondays to Thursdays;
      ii. 7:00 a.m. to 8:00 p.m. on Fridays;
      iii. 10:00 a.m. to 5:00 p.m. on Saturdays and Sundays.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 211/2000 dated November 6, 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 - February 1, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 16, 2005, 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 February 1, 2005, 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 January 17, 2005, the Riel Community Committee concurred in the administrative recommendation with the following amendment, namely:

- That Recommendation 1 be deleted and replaced with the following:

    1. That the Zoning Agreement Caveat No. 2553358 under File DAZ 211/2000 dated November 6, 2000, be amended by:

        A. Adding 'music instruction' to the list of permitted uses outlined in Clause 3 of the agreement; and

        B. Extending the hours of operation as follows:

            i. 7:00 a.m. to 10:00 p.m. Mondays to Thursdays;
            ii. 7:00 a.m. to 8:00 p.m. on Fridays;
            iii. 10:00 a.m. to 5:00 p.m. on Saturdays and Sundays.

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

On December 14, 2004, the Riel Community Committee adjourned the public hearing to its meeting held on January 17, 2004, at 6:00 p.m. in the St. Norbert Community Centre located at 3450 Pembina Highway.

RE: **Zoning Agreement Amendment - 561 St. Anne's Road**
File ZAA 22/2004

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

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

Report date: **January 19, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On January 17, 2005, 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. 2553358 under File DAZ 211/2000 dated November 6, 2000, be amended by:***

   A. Adding 'music instruction' to the list of permitted uses outlined in Clause 3 of the agreement; and

   B. Extending the hours of operation as follows:

      i. 7:00 a.m. to 10:00 p.m. Mondays to Thursdays;
      ii. 7:00 a.m. to 8:00 p.m. on Fridays;
      iii. 10:00 a.m. to 5:00 p.m. on Saturdays and Sundays.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 211/2000 dated November 6, 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.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

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 December 7, 2004.

PUBLIC HEARING SUMMARY

File: ZAA 22/2004

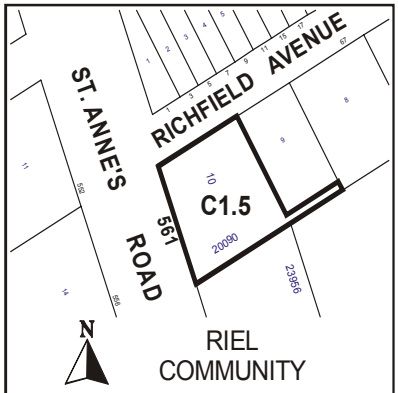
Before: Riel Community Committee
Councillor Steeves, Chairperson
Councillor Magnifico

Public Hearing: January 17, 2005
St. Norbert Community Centre, 3450 Pembina Highway

Adjourned from: December 14, 2004
Community Committee Chamber, 604 St. Mary's Road

Applicant: Booth Dennehy Barristers and Solicitors

Subject:



APPLICANT : BOOTH DENNEHY
FILE : ZAA 22/04
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above to allow for a broader list of uses and to amend the hours of operation. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : BOOTH DENNEHY
RÉFÉRENCE : MCZ 22/04
PROJET : Modification de la convention de zonage touchant le bien-fonds indiqué ci-dessus afin de permettre l'expansion de la liste des utilisations et de modifier les heures d'ouverture. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 561 St. Anne's Road

Exhibits Filed:

1. Application dated November 9, 2004
2. Notification of Public Hearing dated November 17, 2004
3. Manitoba Status of Title 1717433
4. Letter of Authorization dated July 26, 2004 from 2473446 Manitoba Ltd. to Booth Dennehy Ernst & Kelsch
5. Plan
6. Report from the Manager of Planning and Land Use dated December 7, 2004
7. Communication dated January 17, 2005, from Joyce Kostesky in opposition to the application
8. Presentation in support of the application submitted by Clayton Munz on January 17, 2005
9. Presentation in support of the application submitted by Joanne Fontaine on January 17, 2005
10. Communication dated January 17, 2005, submitted by Brenda Schneider

REPRESENTATIONS:

In Support:

Marcien and Darlene Bouchard
Paul Desrosiers
Don Ernst
Joanne Fontaine
Clayton Munz
Guy Savoie
Brenda Schneider

In Opposition

Joyce Kostesky
Rachelle Ladd

For the City:

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

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

January 17, 2005
The applicants, Don Ernst and Marcien Bouchard appeared in support of the application and provided the following information to Committee:

- The average age of students attending the music school is twelve (12) years;
- The average music lesson is thirty-five (35) minutes long;
- There are only six (6) classrooms in the building; thus the maximum amount of vehicles accessing the site at any one time would likely be twelve (12) and there are ten (10) onsite parking stalls and staff are required to park offsite;
- The music school will continue to send notes to students and their parents (see Exhibit 10)

Clayton Munz, Manager and Guy Savoie, President, Louis Riel Chalet, appeared in support of the application. Mr. Munz read a presentation into the record, filed as Exhibit 8. Mr. Savoie stated that the Board of Directors of Louis Riel Chalet were unanimous in their support of this application and would be willing to pass a motion encouraging people to avoid turning around in the driveways of area residents.

Joanne Fontaine appeared in support of the application and read a presentation into the record (filed as Exhibit 9).

Brenda Schneider appeared in support of the application. Ms. Schneider stated she was relocating an existing business that she had operated out of her home for the past nineteen (19) years. Ms. Schneider stated that traffic had been an issue with her home occupation business but had been rectified by the circulation of a letter to students and parents requesting they follow certain traffic guidelines. Ms. Schneider stated that she posted and has begun circulating similar letters to her current students (filed as Exhibit 10).

In response to questions from Councillor Steeves, Ms. Schneider responded:
- The music school has been operating in this location since September, 2004;
- No complaints from area residents have been received thus far;
- There is plenty of parking on site;
- Music can be heard outside the building but it is not invasive;

Rachelle Ladd appeared in opposition to the application. Ms. Ladd stated that her primary concerns included the following:

- The parking lot for the subject property is often full;
- On at least one occasion, a parent picking up/dropping off student(s) at the site has completely blocked traffic on Richfield Avenue;
- On at least one occasion, a patron of the site parked in the lot with his/her headlights on and shining directly into her front window;

- Patrons of the site will often park on Richfield Avenue even when there is space available in the parking lot;
- The safety of her young child.

The applicants, Don Ernst and Marcien Bouchard, returned in rebuttal. Mr. Ernst reiterated points made earlier in the public hearing process. Mr. Ernst stated that the primary concerns of area residents were traffic related and more than likely beyond the control of the applicants. Mr. Ernst further stated that area residents had not complained about the request to extend the hours of operation. Mr. Bouchard stated that he would be willing to post a letter similar to that submitted by Ms. Schneider (Exhibit 10) in the therapeutic clinic portion of the development.

December 14, 2004
The applicants, Don Ernst and Marcien Bouchard appeared in support of the application and gave a brief overview of their request for a zoning agreement amendment for a broader list of permitted uses and extended hours of operation for the subject property.

Rachelle Ladd appeared in opposition to the application. Ms. Ladd stated that building's primary access is on Richfield Avenue and that the door on St. Anne's Road is rarely used. Ms. Ladd indicated that she opposed the application for the following reasons:

- The parking lot is often full and parents wait in their idling cars to pick up their children;
- The business disrupts the quiet residential neighbourhood;

Joyce Kostesky appeared in opposition to the application. Ms. Kostesky was opposed for the following reasons:

- Increased traffic;
- Increase in idling vehicles;
- Increased parking;
- Increased garbage;

The applicants, Don Ernst and Marcien Bouchard, returned in rebuttal. Councillor Steeves indicated that he would be adjourning the matter to afford the applicants the opportunity to meet with area residents.

Exhibit "6" referred to in File ZAA 22/2004

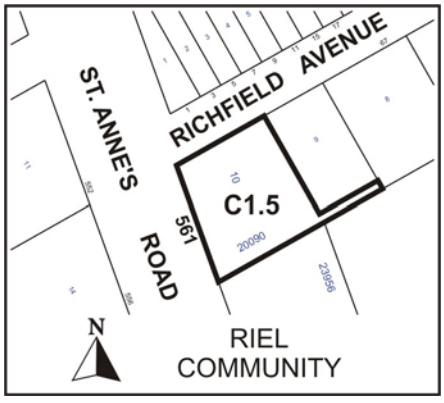
Winnipeg

Planning, Property and Development Department Report

To the Riel Community Committee

Date: December 7/04
File: ZAA 22 /04
Related Files: NA
Subject: To amend the Zoning Agreement on the subject land to allow for a broader list of permitted uses and to extend the hours of operation beyond that which is currently allowed.

Location: 561 St. Anne's Road
Legal Description: SP LOT 10 PLAN 20090 WLTO RL 48 ST. VITAL



Applicant: Booth Dennehy Barristers & Solicitors
Owner: 2473446 Manitoba Ltd.

Recommendation: (Approved in part with Conditions)

Site Description

The subject property is approximately one half acre in size and is situated at the SE corner of Richfield Avenue and St. Anne's Road. There is a building (approx. 4000 sq. ft. in size) currently occupying the site. On the north side of Richfield are residential dwelling units and immediately adjacent to the east is a seniors housing complex. Adjoining to the south is a multi tenant commercial mall zoned C2 Commercial. The subject property is zoned C1-5 Commercial (DAZ 211/2000) with a restrictive agreement in place.

Background

In June of 2000, Riel Community Committee approved a rezoning of the subject site from an R1-5 Residential category to a C1-5 Commercial category in order to allow the establishment of a therapeutic clinic in an existing building. The building had been originally used as a philanthropic center providing accommodation for the families of post operative patients from remote northern communities. The proposed new Krassky Clinic, as it was called, was to have administrative offices, a children's play area, a multi purpose room, and offices for chiropractic medicine and counseling services. Some modifications were made to the original building and a parking area for nine stalls was provided on the east side of the building. Because of concerns raised by the adjacent residential community, restrictive hours of operation were put in place (7am-8pm Monday to Saturday) and use of the land was restricted to a therapeutic clinic, offices, and accessory uses.

Description of the Proposed Development

The applicants/ owners have indicated that several of the previously approved tenants have departed the building and they have, in the interim, found a potential new tenant which they feel would both be compatible with the remaining on site disciplines and would also hopefully be acceptable to the adjoining neighbourhood. The tenant, they are referring to is a music school that is willing to utilize a portion of the available space for music lessons at various times of the day. It has been indicated that the music students would generally be children and would in most cases be dropped off by parents. There is no indication at this time as to the numbers of students that could be accommodated at peak times. Procedurally, in order to accommodate a music school at this location, a Zoning Agreement Amendment application is required

Analysis

It is the opinion of this Department that the addition of a music instruction to the list of on site permitted uses will not add unacceptable levels of traffic to Richfield Ave. and we do not deem music instruction, at a reasonable scale, and during reasonable hours of operation, as an inappropriate activity at the subject location. We do, however, feel that the hours of operation, currently in place are adequate. The applicants themselves, in their letter of intent, that music lessons will only be offered until early evening.

Recommendation

The Planning and Land Use Division recommends approval (in part) for the following reasons:

- The added use will not, in our judgement, generate enough traffic or activity to adversely affect the surrounding neighbourhood.
- It is to everyone's advantage to keep the subject building open and operating as a viable community resource. It would be in any ones interests to have a building closed and empty at this location.

Recommended Conditions of Approval

I. That the Zoning Agreement Caveat No. 2553358 under file no. DAZ 211/00, dated November 6/00, be amended *by adding' music instruction' to the list of permitted uses outlined Clause 3. of the agreement*

II. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 211/00, dated November 6/00,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/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: Kevin Lalor
PPD File # 5.554