Minute No. 298
Report - Standing Policy Committee on Property and Development - March 7, 2005

Item No. 17 Zoning Agreement Amendment - 215 St. Anne's Road
File ZAA 23/2004 [c/r DAZ 235/92]

COUNCIL DECISION;

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

1. That the Zoning Agreement Caveat No. 1698433 under File DAZ 235/92 dated October 14, 1992, (By-law No. 6189/93) be amended by repealing Clause 2 that states "one automobile parking space shall be provided and maintained on the land for each 200 square feet of building floor area located on the land".

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 235/92 (By-law No. 6189/93) dated October 14, 1993, 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 - March 7, 2005

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 March 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 March 7, 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 February 22, 2005, the Riel Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment - 215 St. Anne's Road**
File ZAA 23/2004 [c/r DAV 338811/2004D]

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

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

Report date: **February 28, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 22, 2005, the Riel 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. 1698433 under File DAZ 235/92, dated October 14, 1992 (By-law No. 6189/93) be amended by repealing Clause 2 that states "one automobile parking space shall be provided and maintained on the land for each 200 square feet of building floor area located on the land".

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 235/92 (By-law No. 6189/93) dated October 14, 1993 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 February 15, 2005.

PUBLIC HEARING SUMMARY

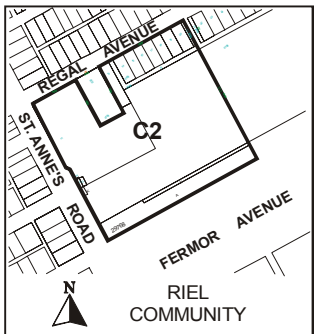
File: ZAA 23/2004 [c/r DAV 338811/2004D]

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

Public Hearing: February 22, 2005
Community Committee Chamber, 219 Provencher Boulevard

Applicant: Nejmark Architect (Pedro Chagas)

Subject:



APPLICANT: NEJMARK ARCHITECT
FILE: ZAA 23/04
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above by deleting the clause which requires one automobile parking space for each 200 square feet of building floor area, in order to facilitate the construction of an addition to the existing supermarket/department store. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : NEJMARK ARCHITECT
RÉFÉRENCE : MCZ 23/04
PROJET : Demande de modification de la convention de zonage visant le bien-fonds délinée ci-dessus par abrogation de la clause exigeant qu'il y ait une place de stationnement pour automobile par tranche de 200 pieds carrés de surface de plancher de l'immeuble, dans le but de faciliter la construction d'un rajout à un supermarché ou grand magasin. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 215 St. Anne's Road

Exhibits Filed:

1. Application dated December 17, 2004
2. Notification of Public Hearing dated January 17, 2005
3. Manitoba Status of Title 1321441
4. Letter of authorization dated December 13, 2004 from Loblaw Properties West Inc. to Nejmark Architect
5. Zoning Agreement DAZ 235/92
6. Zoning Caveat Nos. 1698430 and 1698433
7. Drawing
8. Plans (3 pages)
9. Report from the Manager of Planning and Land Use dated February 15, 2005
10. Inspection Report
11. Petition in support of the application purporting to contain the signatures of thirteen (11) area residents, submitted by the Senior Planner

REPRESENTATIONS:

In Support:

Bruce Andrews
Maxine Armstrong
Pedro Chagas
Shirley Dzenick
M. Fillion
N. Francisco
A. Harcus
Joseph Urbanowich
Jean King
B. Kirton
Mr. and Mrs. Robert McKay
Anna McMahon
Laurier Pagé
G. A. Schwartz
Amanda Spornitz

In Opposition

Michelle Chanowski
Wendy Rulley
Brenda Turnley

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, Pedro Chagas, accompanied by Bruce Andrews, appeared in support of the application and provided a brief overview of the proposal. Mr. Chagas stated that two (2) public meetings were held with area residents and that a number of concerns were raised by area residents including:

- Noise pollution from existing loading facilities and trash compactor;
- Need to enhance the existing berm and fencing with consideration to aesthetics;
- Lack of landscaping along Regal Avenue.

Mr. Chagas stated that the applicant would address the concerns of area residents by:

- Relocating and reconfiguring the existing loading facility and trash compactor;
- Constructing a fourteen (14') foot sound-attenuating Acoustiblok wall screened by further enhanced landscaping to shield the loading area and trash compactor;
- Improve the landscaping and berming along Regal Avenue;
- Reconfigure the staging area for delivery trucks.

Wendy Rulley appeared in opposition to the application. Ms. Rulley stated that the trash compactor and loading area should be relocated to the south side of the building, away from area residents. Ms. Rulley also stated that she was not opposed to the increase in size of the Superstore, but that she was opposed to the relocation of the trash compactor and loading area closer to area residents.

Brenda Turnley appeared in opposition to the application and reiterated concerns raised by Ms. Rulley. Ms. Turnley stated that the existing berm is a catch for garbage, rodents, etc… and that she is opposed to the application in its entirety. Ms. Turnley stated that Superstore has not been a responsible nor proactive neighbour and the rear yard and berm are only cleaned up when area residents complain.

Maxine Armstrong, originally registered to appear for information, appeared in support of the application. Ms. Armstrong requested that the enhanced berming and landscaping be completed prior to the commencement of construction and that the sidewalk on Regal Avenue be removed.

Councillor Steeves read into the record letters of support from area residents submitted by the Senior Planner (filed as Exhibit 11).

Pedro Chagas and Bruce Andrews returned in rebuttal. Mr. Andrews stated that Superstore had unsuccessfully attempted to purchase land from the City of Winnipeg on the south side of the development. Mr. Andrews further stated that they would be unable to relocate the loading area due to the location of freezers and coolers in the existing building.

Mr. Chagas stated that the proposed loading area and trash compactor will be located in an alcove which will be depressed four (4') feet into the ground and bordered by a fence constructed with Acoustiblok. Mr. Chagas stated that the enhancement of the existing berm and construction of the Acoustiblok wall will result in less noise pollution than what is currently heard by area residents. Mr. Chagas further stated that garbage in the area will be reduced as the store's seasonal display will be fully enclosed and the trash compactor will be relocated to an alcove.

In response to a question from Councillor Steeves, Mr. Chagas responded that landscaping is usually done last in a development but that they would endeavour to do as much landscaping as possible prior to start of construction. The Senior Planner indicated that Plan Approval will be required prior to the issuance of permits and that the applicants can incorporate landscaping timelines when the plans are submitted.

Exhibit "8" referred to in File ZAA 23/2004 [c/r DAV 338811/2004D]

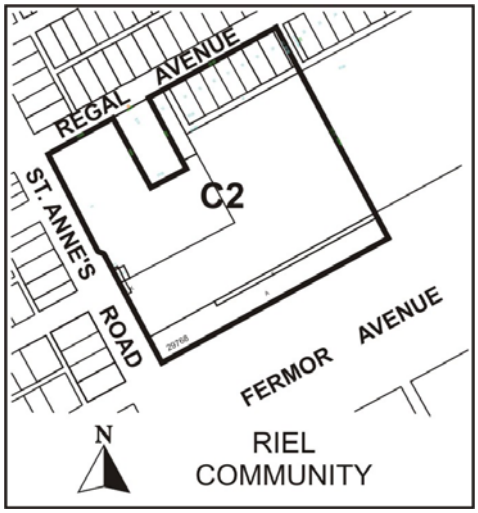
Winnipeg

Planning, Property and Development Department Report

To the Riel Community Committee

Date: February 15/2005
File: ZAA 23 /04
Related Files: DAV 04 338811/D
Subject: To repeal clause 2 of the original zoning agreement which stated " that one parking space shall be provided for each 200 sq. ft. of building floor area on the land">. This in order to facilitate the construction of an addition to the existing supermarket/department store.

Location: 215 St. Anne's Road
Legal Description: Parcels A,B,C,D,E,F,G,H,J,K Plan 29768



Applicant: Nejmark Architects

Owner: Westfair Properties Ltd.

Recommendation: (Approve with Conditions)

Site Description

The existing Superstore site encompasses an area of 11.1 acres stretching from King George Park in the east to St. Anne's Road. Current overall floor area of the store totals approximately 112,301 sq.ft. There are 593 parking stalls. Under a previous expansion in 1992, extensive landscaping and berming were provided along the north periphery of the property to help buffer adjoining residences on Regal Avenue. from the noise and activity generated by traffic in the new parking and loading areas.

Background

In 1992, under DAZ 235/92, approval was granted to Superstore to expand parking and loading zone areas closer to Regal Avenue. Part of that process also involved the acquisition and demolition of a number of residential dwelling abutting Regal Avenue. The neighbouring residents and property owners played an active role in the consultation and approval process and as a result of their participation in the decision making process, Superstore was required to construct and maintain a heavily landscaped and bermed area along the south side of Regal Avenue as a condition of approval. The parking requirement was also elevated to one stall per 200 sq. ft. of commercial floor area space instead of the standard by-law requirement of one stall per 250 sq.ft. of commercial floor area space.

Description of the Proposed Development

Under the current application, the owners propose to add an additional 33,700 sq. ft. of commercial space to the existing store. Expansion cannot occur on the south periphery of the property because the existing building already rests up against the Fermor Avenue right-of-way. Neither can it expand eastwards because of King George Park. Therefore expansion is to take place on the west side and on the north side. It should be noted that at its closest point the north wall of the proposed expansion will now (if approved) be approximately 80' from the north property line instead of approximately 140' previously approved. To make up for the reduction in separation space, the owners are proposing to construct a 14' high noise attention wall between the proposed new loading area and the north parking area. In addition, they are proposing to both heighten the existing berm significantly and greatly intensify the level of landscaping in and around the berm.

Analysis

There are two fundamental issues with this application that have to be addressed, one more potentially important than the other. 1) The actual loss of parking due to the expansion is marginal and the deletion of the clause requiring a parking stall per every 200 sq. ft. of commercial floor space can, in our view, be supported without realistically creating a deficiency for Westfair or creating a problem for the surrounding neighbourhood. In 1992, it was not clear how much parking would be needed to fully meet the requirements of the proposed new store. However it has become apparent in the last twelve years that the existing parking area (almost 600 stalls) is more than adequate to meet the stores existing and future needs with or without an expansion of the floor area. 2) Of greater potential impact for the property owners along Regal Avenue is moving the north building wall and loading area 60 feet closer to the homes on Regal. It was apparent at an informational meeting held on February 10/05 in the Superstore boardroom that a further encroachment into the aforementioned area was the primary point of concern to area residents. At the same time, it appeared as though it was not deemed to be an insurmountable problem if the owners agree to significantly increase the size of the berm area and the level of landscaping on the berm. This Department concurs with the preliminary comments of the neighbouring property owners made at that initial meeting held on February 10/05 and when Schedule "A" Plans are eventually submitted by the applicants (illustrating all of the building addition and loading area changes), we will also expect to see a much higher level of landscaping/berming along the Regal Avenue frontage reflected in those plans. The issuance of any new building permits will be directly tied to the satisfactory completion of said plans and subsequent approval by the Riel Community Committee.

Recommendation

The Planning and Land Use Division recommend approval for the following reasons:

- The number of parking stalls provided under the initial agreement is deemed to be satisfactory to meet the future needs of Superstore even with the proposed increase in commercial floor area.

Recommended Conditions of Approval

I. That the Zoning Agreement Caveat No. 1698433 under file no. DAZ 235/92, dated, October 14/92 (By-Law # 6189/93), be amended *by repealing clause2 that states " one automobile parking space shall be provided and maintained on the land for each 200 sq. ft. of building floor area located on the land".*

II. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 235/92 (By-Law # 6189/93), dated, October 14/93 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