Minute No. 103
Report - Standing Policy Committee on Property and Development - January 9, 2007

Item No. 17 Rezoning - 2901 Sturgeon Road
File DAZ 240/2006

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee 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 240/2006 dated November 21, 2006, to an "M1" Industrial 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. That the use of the subject site shall be limited to wholesale and retail tire sales, office, tire storage / distribution and installation only.

        ii. That there shall be no expansion and/or alteration of the use without the full range of Municipal Services in-place.

        iii. There shall be no new buildings or other permanent structures located within 33.421 metres on the east side of the existing Sturgeon Road right-of-way.

        iv. That there shall be no advertising signs, mobile signs, poster signs, balloon signs, buntings and A-frame signs on the entire site.

2. 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.

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.

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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 (3) 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.

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DECISION MAKING HISTORY:

Moved by Councillor Swandel,

That the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On January 9, 2007, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On December 5, 2006, the Assiniboia Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

Re: **Rezoning – 2901 Sturgeon Road**
File DAZ 240/2006

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

Prepared by: **Carlos Gameiro, Clerk,**
Assiniboia Community Committee

Report date: **December 6, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On December 5, 2006, the Assiniboia Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 240/06, dated November 21, 2006, to an "M1" Industrial 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:

        v. That the use of the subject site shall be limited to wholesale and retail tire sales, office, tire storage / distribution and installation only,

        vi. That there shall be no expansion and/or alteration of the use without the full range of Municipal Services in-place,

        vii. There shall be no new buildings or other permanent structures located within 33.421 metres on the east side of the existing Sturgeon Road right-of-way,

        viii. That there shall be no advertising signs, mobile signs, poster signs, balloon signs, buntings and A-frame signs on the entire site.

2. 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.

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 (3) 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.

The Assiniboia Community Committee provided the following supporting reasons for its recommendation:

1. The Assiniboia Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated November 21, 2006.

PUBLIC HEARING SUMMARY

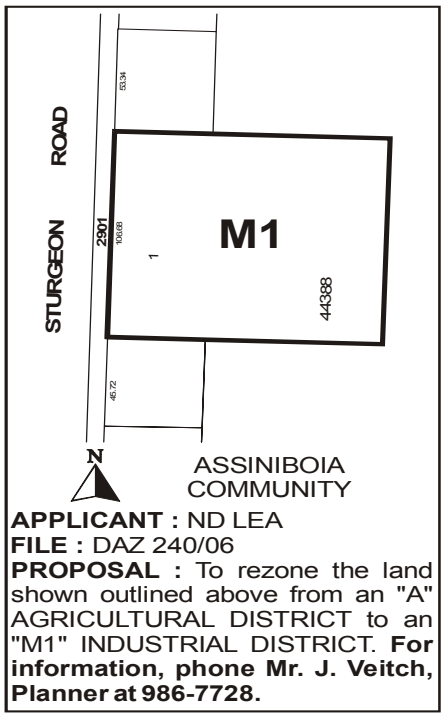
File: DAZ 240/2006

Before: Assiniboia Community Committee
Councillor Clement, Chairperson
Councillor Fielding
Councillor Nordman

Public Hearing: December 5, 2006
Council Building, 510 Main Street

Applicant: ND Lea (Ross Mitchell)

Subject:



Premises Affected: 2901 Sturgeon Road

Exhibits Filed:

1. Application dated October 12, 2006
2. Notification of Public Hearing dated November 2, 2006
3. Status of Title 2118071
4. Letter of authorization dated September 30, 2006 from 109 Higgins Inc. to ND Lea Inc.
5. Variance Order DAV 111743/2005B
6. Variance Order DAV 342476/2003B
7. Variance Order DAV 739/1997C

8. Variance Order DAV 931/1995C
9. Variance Order DAV 62/1995C
10. Variance Order DAV 876/1994C
11. Drawing of subject property
12. Plan
13. Report from the Planning and Land Use Division dated November 21, 2006

REPRESENTATIONS:

In Support:

Ross Mitchell, ND Lea
Jonathan Feldman
Jim Kinnear

In Opposition:

Nil

For the City:

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

SUMMARISATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING

The applicant, Ross Mitchell, ND Lea, appeared in support of the application and gave a brief overview of the proposal and indicated concurrence in the recommendations contained in the administrative report from the Manager of Planning and Land Use dated November 21, 2006.

In response to questions by Councillor Nordman, the applicant indicated that the development would not impact on the airport west development area as it is a small site and can be incorporated into future designs of the area.

Exhibit "13" referred to in File DAZ 240/2006

Winnipeg

Planning, Property and Development Department Report

To the Assiniboia Community Committee

Date: November 21, 2006
File: **DAZ 240/06**
Related Files: n/a
Subject: To amend By-Law No. 6400/94 by rezoning the land shown below from an "A" Agricultural District to an "M1" Industrial District.

Location: 2901 Sturgeon Road
Legal Description: Lot 1, Plan 44388



Applicant: ND Lea – Mr. Ross Mitchell
Owner: 109 Higgins Inc. – Mr. William Feldman

Recommendation: *Approved with Conditions*

Site Description

Existing Land Use and Zoning

The approximately 3.12 acre site is occupied by a tire sales and service business including a head office, wholesaling, tire storage / distribution, retail tire sales and installation. The site is zoned 'A' Agricultural and designated Industrial in Plan Winnipeg 2020, it is located in the Saskatchewan North Neighbourhood of the Assiniboia Community.



Figure 1: Subject Site (Aerial Photo flown 2005)

Surrounding Land Use and Zoning

North: 'A' Agricultural
South: 'A' Agricultural
East: 'A' Agricultural
West: Sturgeon Road then 'A' Agricultural

Background

The variance history as researched by the Zoning Department goes back to 1968 when the property was occupied by a non-conforming welding shop.

DAV 467/77 - Expansion, the construction of an addition applied for in 1977
DAV 425/85, DAV 884/85 – Change of use to a tire re-treading business
DAV 601/86, DAV 512/89 – Construction of 2 storage buildings
DAV 876/94 – Permit the maintenance of a tire re-treading business, expired July 31, 2005
DAV 62/95 – Temporary change of use not to exceed 5 years to permit the expansion of a tire storage compound, expired March 15, 2000.
DAV 931/95 – Addition to a non-conforming building

Description of the Proposed Development

The owners of the property wish to rezone from Agricultural to Industrial to legitimize the non-conforming use with Zoning By-law 6400/94, allowing the business to remain on the property.

Analysis

Plan Winnipeg Compliance
The subject site is designated Rural in Plan Winnipeg, as such, there are no sewer, water and land drainage system services to the site. Typically the City of Winnipeg has tended not to support re-zonings until such time as the full range of municipal services can be provided. However, all applications are judged on a case-by-case basis. Sturgeon Tire has existed at this site since 1985, operating under a series of variances with strict conditions involving site development, storage, use and signage. The use seems to have been compatible with the context over those years and this proposed re-zoning would not allow the expansion or intensification of the development. The Administration supports this rezoning provided strict conditions affecting the use, operation and intensity of the existing business on the subject site are put in-place.

Compliance with other Policy and Plans
The Airport Area West Structure Plan was adopted by Council September 25, 2002. The subject site is within the proposed street widening of Sturgeon Road. At this point there is no formal timeline for when these road works will take place, a considerable monetary investment allowing the extension of services to the area is required.

The Public Works Department has responded to this application referencing the Airport Area West Structure Plan. They recommend that no new buildings or other permanent structures should be permitted within the area required for future road widening.

Recommendation

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

- The use has existed on the site for over 20 years, the rezoning acknowledges the use and allows it to conform with the Zoning By-law 6400/94,
- The site is designated Industrial in Plan Winnipeg,
- Proposed conditions in the recommended Zoning Agreement will not allow any intensification, expansion or change of use on the site until such time as the full range of municipal services are available,

Recommended Conditions of Approval

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 240/06, attached hereto and dated November 21, 2006, to an "M1" Industrial 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:

ix. That the use of the subject site shall be limited to wholesale and retail tire sales, office, tire storage / distribution and installation only,

x. That there shall be no expansion and/or alteration of the use without the full range of Municipal Services in-place,

xi. There shall be no new buildings or other permanent structures located within 33.421 metres on the east side of the existing Sturgeon Road right-of-way,

xii. That there shall be no advertising signs, mobile signs, poster signs, balloon signs, buntings and A-frame signs on the entire site.

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 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.

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 (3) readings.

V. 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.

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.

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

Report Prepared by: James Veitch
PPD File # DAZ 240/06

Schedule "A"

By-Law No. _____

File No. **DAZ 240/06**

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 2901 Sturgeon Road from an "A" AGRICULTURAL DISTRICT to an "M1" INDUSTRIAL DISTRICT as shown outlined below.

Atlas Sheet No.

N

X15 ASSINIBOIA COMMUNITY



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Schedule "A" to the report to Assiniboia Community Committee for file # DAZ 240/05 dated November 21, 2006.