Minutes - Executive Policy Committee - April 9, 2008

Minute No. 259
Report - Standing Policy Committee on Property and Development - March 25, 2008

Item No. 11 Zoning Agreement Amendment - 176 Watson Street (Old Kildonan Ward) File ZAA 1/2008 [c/r DCU 101568/2008D]

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That Zoning Agreement Caveat 83-82834 and 80-3973, under File DAZ 11/79 and dated August 15, 1979 (By-Law Nos.2439/79 & 2440/79), be withdrawn and replaced with a new Zoning Agreement as follows:

    A. That the applicant enter into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

        i. That the following uses shall not be permitted on the land:
            a. amusement enterprise, outdoor
            b. drinking establishment
            c. landscape or garden supplies
            d. fuel sales
            e. landscape/garden contractor

        ii. That the following uses shall be conditional on the land
            a. drive-in or drive-through
            b. auto/light truck/motorcycle, repair and service

        iii. That the following use shall be restricted as follows:
            a. auto/light truck/motorcycle, sales and rental; no outdoor display of vehicles shall be permitted

        iv. Not more than one freestanding identification sign shall be permitted. Said sign shall be setback a maximum of twenty (20) feet from any abutting street

Report - Standing Policy Committee on Property and Development - March 25, 2008

v. Not more than one fascia identification sign shall be permitted nor shall such sign exceed ten percent (10%) of the square footage of the building wall to which the sign is attached, without the approval of the Lord Selkirk-West Kildonan Community Committee

vi. Said free standing and fascia signage shall not be of a flashing, scintillating, and animated type without the approval of the Lord Selkirk-West Kildonan Community Committee, in which event the sign shall be located no closer than two hundred (200) feet from an adjacent residential district.

vii. No building shall be located within twenty-five (25) feet of the north and south limits and the east and west limits of Kingsbury Avenue and Watson Street, respectively, unless such construction is first approved by the Lord Selkirk-West Kildonan Community Committee

viii. No parking shall be located within ten (10) feet of the north and south limits and the east and west limits of Kingsbury Avenue and Watson Street, respectively, unless such parking is first approved by the Lord Selkirk-West Kildonan Community Committee

ix. That for the development of any building, accessory parking area, outdoor storage area, and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, outdoor storage, fencing, landscaping and signage to the Director of Planning, Property and Development and the Lord Selkirk-West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 11/79 (By-Law Nos. 2439/79 & 2440/79) as approved in aforesaid recommendation 1.

3. 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 Lord Selkirk-West Kildonan Community Committee be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On March 25, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On February 26, 2008, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendments, namely:

- That recommendation iii. a. be amended to read:
  "iii. That the following use shall be restricted as follows:
  a. auto/light truck/motorcycle, sales and rental; no outdoor display of vehicles shall be permitted."

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

RE: **Zoning Agreement Amendment - 176 Watson Street**
(Old Kildonan Ward)
File ZAA 1/2008 [c/r DCU 101568/2008D]

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

Prepared by: **Diane Timmins, Clerk,**
Lord Selkirk-West Kildonan Community Committee

Report date: **March 3, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 26, 2008, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement Caveat 83-82834 and 80-3973, under File DAZ 11/79 and dated August 15, 1979 (By-Law Nos.2439/79 & 2440/79), be withdrawn and replaced with a new Zoning Agreement as follows:

    A. That the applicant enter into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

        i. That the following uses shall not be permitted on the land:
            a. amusement enterprise, outdoor
            b. drinking establishment
            c. landscape or garden supplies
            d. fuel sales
            e. landscape/garden contractor

        ii. That the following uses shall be conditional on the land
            a. drive-in or drive-through
            b. auto/light truck/motorcycle, repair and service

        iii. That the following use shall be restricted as follows:
            a. auto/light truck/motorcycle, sales and rental; ***no outdoor display of vehicles shall be permitted.***

    iv. Not more than one freestanding identification sign shall be permitted. Said sign shall be setback a maximum of twenty (20) feet from any abutting street

    v. Not more than one fascia identification sign shall be permitted nor shall such sign exceed ten percent (10%) of the square footage of the building wall to which the

sign is attached, without the approval of the Lord Selkirk-West Kildonan Community Committee

vi. Said free standing and fascia signage shall not be of a flashing, scintillating, and animated type without the approval of the Lord Selkirk-West Kildonan Community Committee, in which event the sign shall be located no closer than two hundred (200) feet from an adjacent residential district.

vii. No building shall be located within twenty-five (25) feet of the north and south limits and the east and west limits of Kingsbury Avenue and Watson Street, respectively, unless such construction is first approved by the Lord Selkirk-West Kildonan Community Committee

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ix. That for the development of any building, accessory parking area, outdoor storage area, and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, outdoor storage, fencing, landscaping and signage to the Director of Planning, Property and Development and the Lord Selkirk-West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 11/79 (By-Law Nos. 2439/79 & 2440/79) as approved in aforesaid Recommendation 1.

3. 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 Lord Selkirk-West Kildonan Community Committee provided the following supporting reason for its recommendation:

1. The Lord Selkirk-West Kildonan Community Committee agreed with the comments contained in the report from the Planning and Land Use Division dated February 1, 2008.

PUBLIC HEARING SUMMARY

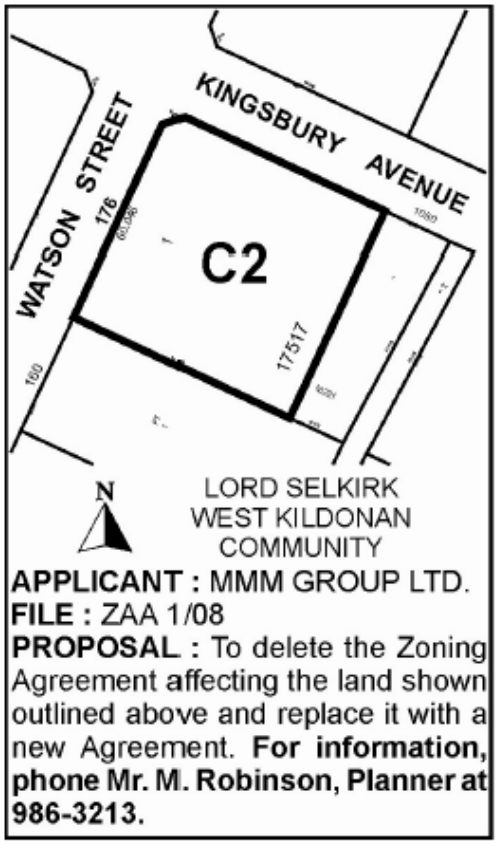
File: ZAA 1/2008 [c/r DCU 101568/2008D]

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Lazarenko, Chairperson
Councillor O'Shaughnessy
Councillor Pagtakhan

Public Hearing: February 26, 2008
West Committee Room
Council Building, 510 Main Street

Applicant: MMM Group Limited (Frieder Aldinger)

Subject:



Premises Affected: 176 Watson Street

Exhibits Filed:
1. Application dated January 8, 2008
2. Notification of Public Hearing dated January 15, 2008
3. Manitoba Status of Title 2103063

4. Letter of authorization (undated) from Grasshopper Ventures Inc. to MMM Group Limited
5. Surveyor's Building Location Certificate and sketch dated May 14, 1987
6. Plans (2 pages)
7. Report from the Planning and Land Use Division dated February 25, 2008
8. Inspection Report
9. Audio Recording of representations

REPRESENTATIONS:

In Support:

Frieder Aldinger, MMM Group Limited
Ross Mitchell, MMM Group Limited
Denys Gauthier
Martin Newlands

In Opposition

Nil

For the City:

Mr. M. Robinson, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 1/2008 [c/r DCU 101568/2008D]

Winnipeg

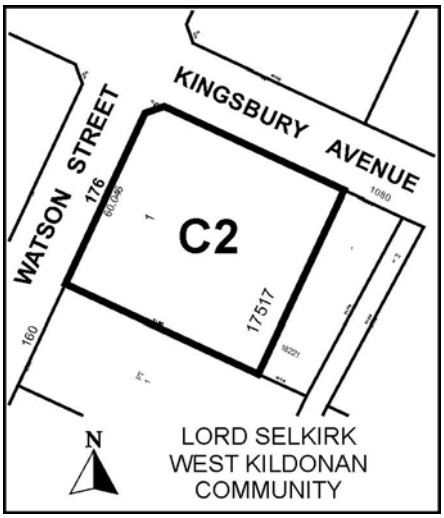
Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Revised
Revisions in bold and italics

Date: **February 25, 2008**
File: **ZAA 1/2008**
Related Files: **DCU 08-101568/D**
Subject: **Application to remove the existing Zoning Agreement**

Location: **176 Watson Street**



Applicant: **Frieder Aldinger (MMM Group Limited)**
Owner:

Recommendation: **Withdraw the existing zoning agreement and replace it with a new agreement**

Site Description
The subject property, which is zoned "C2" Commercial, is located at the southeast corner of Watson and Kingsbury Streets in the Leila-McPhillips Triangle neighbourhood of the Old Kildonan ward.
2164

North: Multiple-family residences zoned "C2" Commercial
South: Commercial uses zoned "C2" Commercial
East: Commercial use zoned "C2" Commercial
West: Multiple-family residences zoned "RM-2" Multiple-Family Residential

Background

DAV 06-149411/C

In September 2006, the Board of Adjustment approved a variance for a 15-foot rear yard setback, instead of 25 feet.

DCU 06-11149411/C

In September 2006, the Board of Adjustment approved a conditional use for the expansion of an automobile washing drive-through and self-service use. The approval included five conditions:

1) That if any Conditional Use granted by the Order is not established within two (2) years of the date thereof, the Order, in respect of that Conditional Use, shall terminate.
2) That final plans showing the location of buildings, lighting, and signage shall be submitted to the Director of Planning, Property and Development for approval prior to the issuance of any development or building permits and that the development shall be built in substantial conformance with those plans and thereafter shall be maintained to the satisfaction of the Director of Planning, Property and Development.
3) That all lighting shall be full cut off, to eliminate glare on adjoining properties
4) That all but one free standing sign shall be removed from the property by October 31, 2006
5) That all external business signage shall be approved by the Director of Planning, Property, and Development prior to the issuance of development permits

Description of the Proposed Development

At this time, the applicant wishes to withdraw the existing zoning agreement on the property. Their intention is to sell vehicles on the property, which is currently not permitted under the Zoning Agreement.

The applicant has indicated that the vehicle sales would be ancillary to the car wash and that a maximum of six (6) vehicles would be displayed for sale at any given time. They have also indicated that there are no plans to have banners, streamers, or other attention getting devices.

Analysis

Vehicle Sales

The Division supports the proposed amendment to allow auto sales, provided that the use is ancillary to the principal use (car wash and laundromat) and that it is limited to a maximum of six (6) vehicles on display at any one time.

Given the size of the property, the display of six vehicles will not impede the overall operation of the car wash and laundromat.

Zoning Agreement

With respect to the repealing the balance of the existing zoning agreement, the Planning and Land Use Division believes that the agreement was added to protect adjoining residential properties from development that could be potentially incompatible or have an adverse impact on residences.

With that said, nothing has the intervening years has changed insomuch as the subject property still abuts residences and the restrictions still provide protection for those residences.

Consequently, the Division does not recommend completely withdrawing the existing agreement. However, the Division does recommend updating the zoning agreement by reevaluating the prohibited uses, using the following criteria:

1. Any uses that were not previously restricted should not be restricted in the new agreement
2. If it no longer makes sense for a use to be prohibited, it should be removed from the prohibited list
3. Where a use was restricted previously and where one could reasonably conclude that the use may still have a negative impact on adjoining properties, it should remain on the prohibited list
4. Where a use was a conditional use previously and where one could reasonably conclude that the use may still have a negative impact on adjoining properties, it should remain as a conditional use
5. All restrictions with respect to building and parking setbacks, signage, and plan approval should remain

Fascia Signage

The existing building does not comply with the sign restrictions in the existing zoning agreement, which requires that the building be limited to one (1) fascia sign, not exceeding 10% of the square footage of the building wall.

The Planning and Land Use Division believes that this restriction is onerous and indicated that with the submittal of a signage plan, which provided a coordinated, visually appealing signage program for the building, a loosening of this restriction would be recommended. ~~However, at the time of this writing, a signage plan had not been submitted.~~

The applicant has submitted a signage plan (Appendix A), which is an improvement over the current situation. With that said, the Division and the applicant can not reach agreement over the applicant's wish to spray paint the signage directly on the building. The Division believes that channel letters or box signs would provide a more professional appearance, and that the appearance should be a factor when considering whether to loosen the restriction on the amount of signage that is permitted on the site.

Therefore, we leave this detail to Community Committee for their consideration.

Recommendation

The Planning and Land Use Division recommends withdrawing the existing zoning agreement and replacing it with a new agreement for the following reasons:

- The current zoning agreement is outdated, with respect to the list of prohibited uses
- Vehicle sales will not have an adverse impact on adjoining properties, provided that they are limited to a maximum of six (6) vehicles.

Recommended Conditions of Approval

1. That Zoning Agreement Caveat 83-82834 and 80-3973, under File DAZ 11/79 and dated August 15, 1979 (By-Law Nos.2439/79 & 2440/79), be withdrawn and replaced with a new Zoning Agreement as follows:

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3. 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: Michael Robinson, AICP
PPD File # ZAA 1/2008



Figure 1: Aerial Photo (Flown in 2005)

Appendix A Signage Plan



View 1 - Before



View 1 - After

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View 2 - Before



View 2 - After

41946 before_after.indd | Feb 19.08