Minutes - Executive Policy Committee - July 2, 2008

REPORTS

Minute No. 371 Rezoning - 260 Kotelko Drive
(St. Boniface Ward)
File DAZ 210/2008

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Riel Community Committee and recommends to Council:

1. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 210/2008 dated June 16, 2008, to an "A" Agricultural 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 uses on the land be restricted to:

            a. A single family dwelling with accessory buildings
            b. Day care centre
            c. Landscape /garden supplies
            d. Landscape garden contractor or production

        ii. That for the development of any building and/or accessory parking area, 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, fencing, landscaping and signage to the Director of Planning, Property and Development and the Riel 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 a ten percent (10%) 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 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 zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

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.

DECISION MAKING HISTORY:

Moved by Councillor Swandel,

That the recommendation of the Riel Community Committee be concurred in and forwarded to Council.

Carried

COMMUNITY COMMITTEE RECOMMENDATION:

On June 23, 2008, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Rezoning - 260 Kotelko Drive**
File DAZ 210/2008 [c/r DAV 112279/2008D]

For submission to: **Executive Policy Committee**

Prepared by: **Marc Pittet, Senior Committee Clerk**
Riel Community Committee

Report date: **June 25, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 23, 2008, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

1. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 210/2008 dated June 16, 2008, to an "A" Agricultural 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 uses on the land be restricted to:

            a. A single family dwelling with accessory buildings
            b. Day care centre
            c. Landscape /garden supplies
            d. Landscape garden contractor or production

        ii. That for the development of any building and/or accessory parking area, 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, fencing, landscaping and signage to the Director of Planning, Property and Development and the Riel 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 a ten percent (10%) 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 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 zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

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 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 of the Planning and Land Use Division dated June 16, 2008.

PUBLIC HEARING SUMMARY

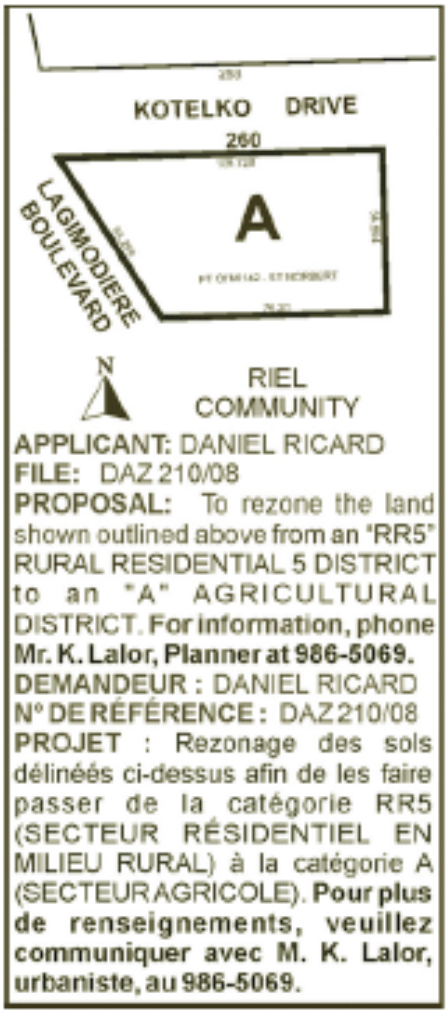
File: DAZ 210/2008 [c/r DAV 112279/2008D]

Before: Riel Community Committee
Councillor Swandel, Chairperson
Councillor Steeves
Councillor Vandal

Public Hearing: June 23, 2008
Council Chamber
Council Building, 510 Main Street

Applicant: Daniel Richard

Subject:



Premises Affected: 260 Kotelko Drive

Exhibits Filed:

1. Application dated April 2, 2008
2. Notification of Public Hearing dated April 10, 2008
3. Manitoba Status of Title 1657576
4. Surveyor's Building Location Certificate and sketch dated May 9, 1984
5. Zoning Development Information
6. Plans (2 pages)
7. Site Plan
8. Report from the Planning and Land Use Division dated June 16, 2008
9. Inspection Report
10. Audio Recording of representations of public hearing held on June 23, 2008

REPRESENTATIONS:

In Support:

Daniel Ricard

In Opposition

Nil

For Information:

Eric Vogan

For the City:

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

Exhibit "8" referred to in File DAZ 210/2008 [c/r DAV 112279/2008D]

Winnipeg

Planning, Property and Development Department Report

To the Riel Community Committee

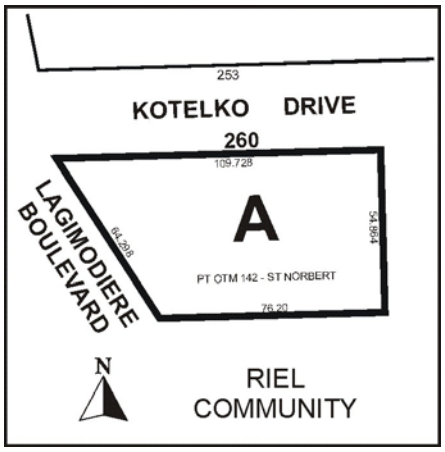
Date: June 16/08
File: DAZ 210 /2008

Related Files: DAV 04 113216C, DAV 08 112279D

Subject: To rezone the subject property from its current " RR-5" Rural Residential District category to a "A" Agricultural category to permit a wider range of uses in the short term.

Location: S.E. corner of Kotelko Blvd. and Lagimodiere Blvd.

Legal Description: Part Plan 3910, RL 142 St. Norbert, except Rd. Plan 10584



Applicant: Daniel Ricard

Owner: Same as above

Recommendation: Approval with conditions

Site Description:



The subject property is a 1.5 acre parcel located at the N.E. corner of Lagimodiere Blvd. and the Perimeter Hwy. There is a one and a half story structure on the property in addition to a gravel parking area. The bulk of the land to the immediate east and north is vacant and zoned "RR-5" Rural Residential. There are several other dwellings on Kotelko Drive, however, one of which is directly on the opposite side of the street. Lands south of the Perimeter Highway are still undeveloped and zoned "A" Agricultural. To the west are the vacant MHRC lands zoned "RR-5" Rural Residential and an un-serviced industrial area on the north side of the Perimeter zoned "M2" Industrial.

Background:

The owner of the property has for many years operated a small vehicle sales business on the site. He received several variance approvals, usually for short terms but under the new stricter

regulations of By-Law 200/06, he is unable to obtain a new use variance without an accompanying rezoning to commercial. Procedurally, he cannot rezone to a commercial category under Plan Winnipeg Policy guidelines because the land does not have a full range of services. Therefore he has resigned himself to moving the car business to an alternate location in the City. However, he would like to continue using the existing structures and the site for a small scale nursery/landscaping business. In order to do so, he requires a rezoning to " A" Agricultural as his current recently imposed "RR5" zoning does not allow for nurseries with garden supply sales. It should be noted that the new By-Law 200/06 eliminated the old "A5" zoning category and replaced it with a new rural residential category (RR5). Most rural landowners were not aware of the change until (as was the case with the applicant) he made inquiries regarding the possibility of establishing a landscaping business. Under the previous By-law 6400/94, landscaping operations were a conditional use in areas zoned "A5" Agricultural.

Description of the Proposed Development:

As indicated in the previous section, if the applicant's request is endorsed by City Council, he will establish a small scale seasonal landscaping and nursery business and possibly a future day care on the premises in order to make use of his existing facilities.

Analysis:

The Planning Department has assessed the subject application and is of the view , that a reversion back to a restricted agricultural zoning can be endorsed for the following reasons:

1) It can be argued that the owner of the subject land has not only not benefited by the new zoning imposed on his land but he has suffered undue hardship as a result. The number of permitted and conditional uses has been reduced thereby impacting on the value of his land.
2) The proposed uses (dwelling, nursery/ garden supply sales and possible future daycare) should have significantly less impact than that of the car dealership that operated on the site for over ten years. It should be noted that , if approved, use of the land will be restricted to the above noted uses as there are some uses in the Agricultural "A" zoning category (i.e. heavy equipment sales and service) that are not appropriate for the area in question.
3) Ultimately, sometime in the distant future the land in the immediate area , including the subject property will , in all likelihood, be assembled by Qualico and developed for residential single family housing. And whether the land is zoned " RR5" or "A", it will all , once again, have to be rezoned to a low density residential housing category.

Recommendation

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

- The uses proposed by the applicant appear to be appropriate at the subject site given that 1) the proposed operation is small scale in nature, 2) there are a number of buildings on the site that are in good condition and could continue to be utilized and 3) the property is well removed from existing residential neighbourhoods with major development still many years away.

Recommended Conditions of Approval

1. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 210/2008 dated June 16/2008, to a "A" Agricultural 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 uses on the land be restricted to:
         a. A single family dwelling with accessory buildings.
         b. Day care centre.
         c. Landscape /garden supplies.
         d. Landscape garden contractor or production.

      ii. That for the development of any building and/or accessory parking 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, fencing, landscaping and signage to the Director of Planning, Property and Development and the **Riel** 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 a ten percent (10%) 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 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 zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands,

provided that the said effective date occurs within one year from the date by-law is passed.

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.

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

Report Prepared by: Kevin Lalor
PPD File # DAZ 210/2008

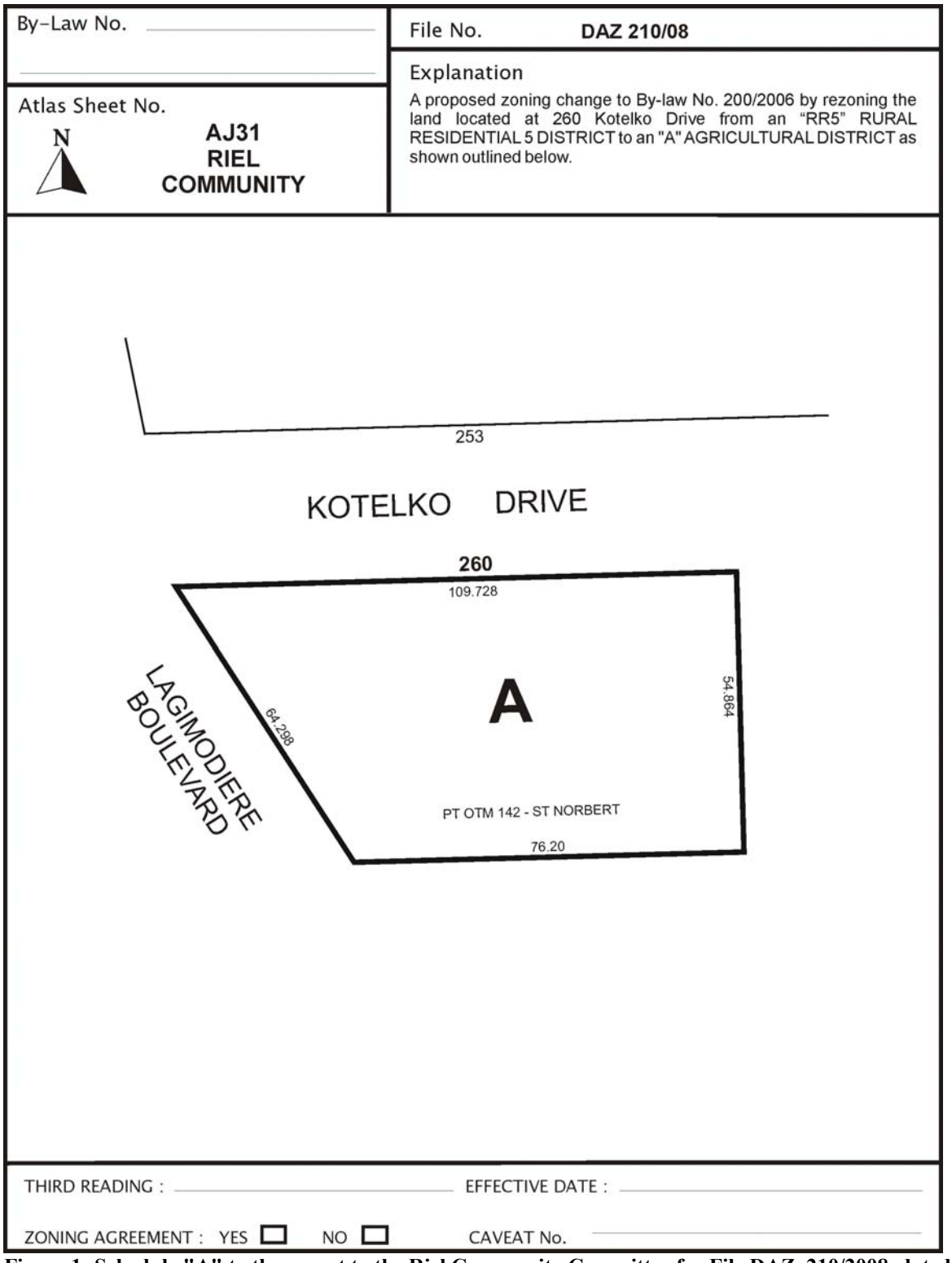


Figure 1: Schedule "A" to the report to the Riel Community Committee for File DAZ 210/2008, dated June 16, 2008.