Report - Executive Policy Committee - September 3, 2008

Item No. 5 Zoning Agreement Amendment - 94 McGregor Street (Mynarski Ward) File ZAA 12/2008

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 3, 2008, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That Zoning Agreement Caveat 1639186 under File DAZ 233/92 dated October 14, 1992 (By-law No. 6041/92) be withdrawn.

2. 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 - Executive Policy Committee - September 3, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 3, 2008, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 15, 2008, the Lord Selkirk-West Kildonan 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: **Zoning Agreement Amendment - 94 McGregor Street (Mynarski Ward) File ZAA 12/2008**

For submission to: **Executive Policy Committee**

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

Report date: **July 23, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 15, 2008, the Lord Selkirk-West Kildonan 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 That Zoning Agreement Caveat 1639186 under File DAZ 233/92 dated October 14, 1992 (By-Law No. 6041/92), be withdrawn.

2. 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 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 July 1, 2008.

PUBLIC HEARING SUMMARY

File: ZAA 12/2008

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

Public Hearing: July 15, 2008
West Committee Room
Council Building, 510 Main Street

Applicant: D'Arcy and Deacon, Barristers and Solicitors (Brad Regehr)

Subject:



Premises Affected: 94 McGregor Street

Exhibits Filed:

1. Application dated June 6, 2008
2. Notification of Public Hearing dated June 6, 2008
3. Manitoba Status of Titles 2267895, 2267900, 2267901, 2267905, 2267906
4. Letter of authorization dated February 4, 2008 from Ma Mawi Wi Chi Itata Centre Inc. to D'Arcy and Deacon LLP
5. Surveyor's Building Location Certificate and sketch dated November 1, 2007
6. Plans (27 pages)
7. Land Information Services Sheet
8. Zoning Agreement DAZ 233/92
9. Caveat 1639186
10. Variance Order DAV 360/92D
11. Report from the Planning and Land Use Division dated July 1, 2008
12. Inspection Report
13. Audio Recording of representations

REPRESENTATIONS:

In Support:

Brad Regehr, D'Arcy and Deacon, Barristers and Solicitors
Annetta Armstrong
Larry Wucherer
Rev. Michael Buyachok
Kyoungok Kim
In Sook Kim

In Opposition

Nil

For the City:

Ms S. Matile, Land Development Engineer, Planning, Property and Development Department
Mr. M. Robinson, Planner, Planning, Property and Development Department
Mr. N. Yauk, Planner, Planning, Property and Development Department

Exhibit "11" referred to in File ZAA 12/2008

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: July 1, 2008
File: ZAA 12/2008
Related Files: DASZ 20/06
Subject: Application to delete the existing zoning agreement
Location: 94 McGregor Street



Applicant: D'Arcy and Deacon Barristers and Solicitors (Brad Regehr)
Owner: Ma Mawi Wi Chi Itata Centre Inc.

Recommendation: Approval

Report Summary:

- The subject property has a very restrictive zoning agreement
- The new owner, Ma Mawi, requires an amendment to the zoning agreement to legally establish their use

- **The Public Service recommends that the entire zoning agreement be withdrawn, as it is overly restrictive and unnecessary, given the regulations already provided in the Zoning By-law**

Site Description

The subject property, which is zoned "C1" Commercial, is located at the southwest corner of McGregor Street and Stella Avenue, in the Dufferin neighbourhood of the Mynarski ward.

North: Multiple-family use zoned "RMF-L" Multiple-Family Residential
South: Vacant lot and residences zoned "R2" Two-Family Residential
East: Commercial use and vacant lot zoned "R2" Two-Family Residential
West: Residences zoned "R2" Residential then a bakery, zoned "R2" Residential

Background

In 1992, the subject property was rezoned "C1" Commercial, at the request of the Ukrainian Catholic Parish of Saints Vladimir and Olga, for the purpose of establishing a church office and priest's residence.

Community Committee approved the rezoning, however, in light of opposition by one property owner in the area, Community Committee added a restrictive zoning agreement limiting the permitted uses on the land as follows:

1. The land and any building or structure on it shall not be used for, and no building or structure shall be erected, placed, altered or enlarged on the land for any use except:
   a. Office building for church administration
   b. Single-family residence for priest's residence
   c. Accessory uses

The zoning agreement also included a standard Schedule "A" plan approval clause.

Description of the Proposed Development

Ma Mawi has been leasing the subject property from the Ukranian Catholic Church of Saints Vladimir and Olga since December 2000. They use the facility as their main administrative offices for management, finance, human resources, and IT systems.

More recently, in September 2007, Ma Mawi entered into an Offer to Purchase the subject property and title was transferred in November 2007. During the sale process, it was identified that the property had a restrictive zoning agreement which would prohibit Ma Mawi from continuing to use the property as an office.

Consequently, Ma Mawi has applied to amend the zoning agreement to make it less restrictive

Analysis

Compatibility

Ma Mawi has been leasing and occupying the subject property, without any incidents or complaints from the surrounding community for almost seven (7) years. Additionally, the property is located on a regional street, and is in proximity to other commercial and institutional uses.

For these reasons, the Public Service believes that the use is appropriate in the subject location.

Zoning

The Public Service sees no need to maintain the existing agreement. The property is currently zoned "C1", which is already a very restrictive zoning category. Furthermore, bulk provisions, parking requirements, and site enhancement requirements in the new Zoning By-law will all apply to this site if it is ever redeveloped in the future.

For those reasons, the Public Service recommends that the entire Zoning Agreement be deleted and not replaced with a new agreement.

Recommendation

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

- Ma Mawi has been leasing and occupying the subject property, without any incidents or complaints from the surrounding community for almost seven (7) years.

- The property is located on a regional street and is in proximity to other commercial and institutional uses

- The proposed use is compatible with the area and will not have an adverse impact on adjacent properties

Recommended Conditions of Approval

1. That Zoning Agreement Caveat 1639186 under File DAZ 233/92 dated October 14, 1992 (By-Law No. 6041/92), be withdrawn.

2. 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 13/2008

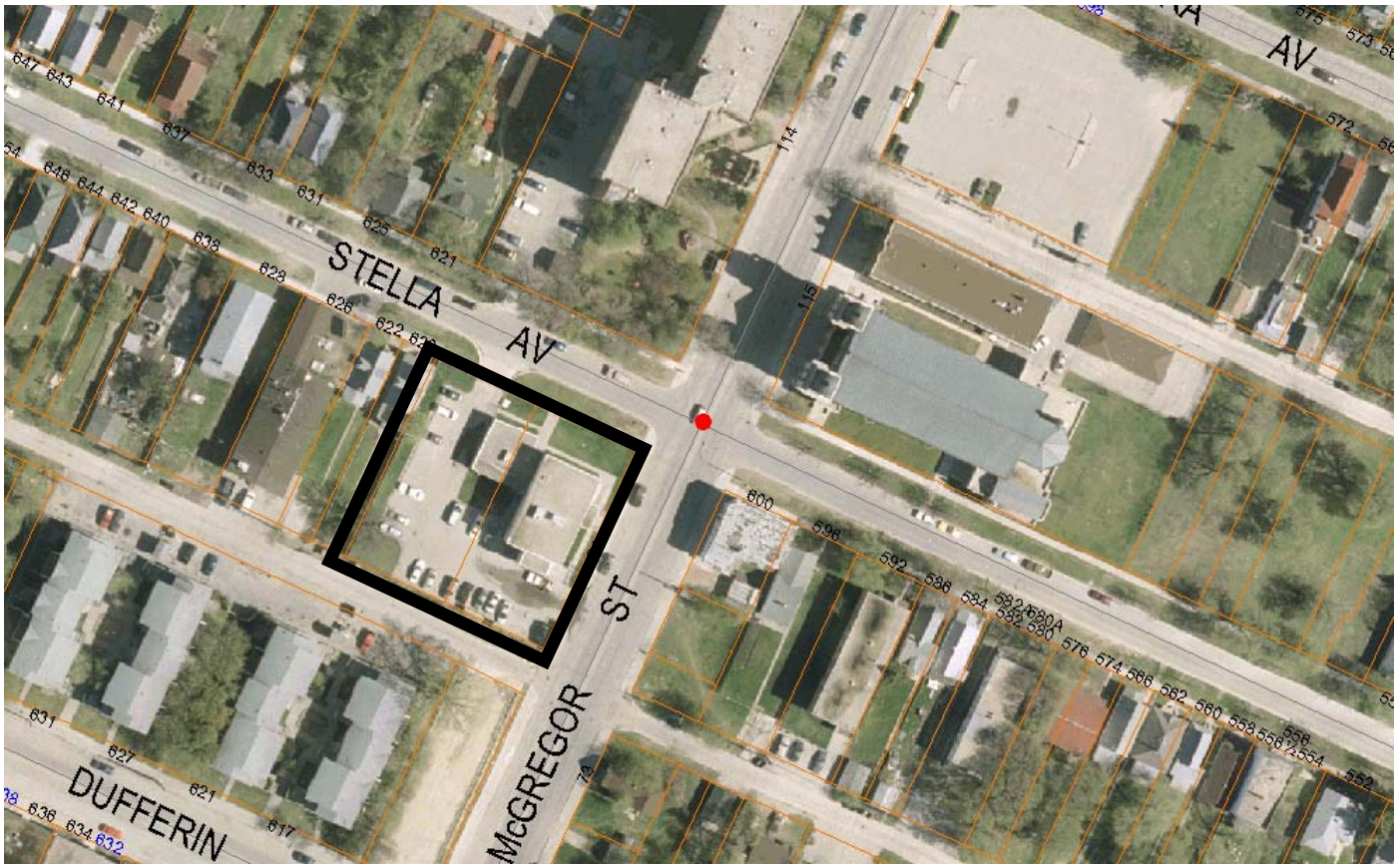


Figure 1: Aerial Photo (Flown in 2005)