Agenda - Council - September 24, 2008

Report - Standing Policy Committee on Property and Development - September 2, 2008

Item No. 11 Zoning Agreement Amendment - 2 Sava Way (Old Kildonan Ward) File ZAA 13/2008

STANDING COMMITTEE RECOMMENDATION:

On September 17, 2008, the Executive Policy Committee concurred in the recommendation 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 3410428 under File DASZ 20/2006 dated July 26, 2006 (By-law No. 189/2006), be amended as follows:

   A. That Clause 5 be deleted and the following substituted therefore:

      "5. A minimum side yard setback of 10 feet (3.048 metres) shall be maintained where the lot flanks Leila Avenue."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 20/2006 (By-Law No. 189/2006) 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 - September 2, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 17, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 2, 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 July 15, 2008, the Lord Selkirk-West Kildonan Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development:

1. That Zoning Agreement Caveat 3410428 under File DASZ 20/2006 dated July 26, 2006 (By-law No. 189/2006), be amended as follows:

    A. That Clause 5 be deleted and the following substituted therefore:

        "5. A minimum side yard setback of 10 feet (3.048 metres) shall be maintained where the lot flanks Leila Avenue."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 20/2006 (By-Law No. 189/2006) 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.

RE: **Zoning Agreement Amendment - 2 Sava Way**
(Old Kildonan Ward)
File ZAA 13/2008

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

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

Report date: **July 24, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 15, 2008, the Lord Selkirk-West Kildonan Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development:

1. ***That Zoning Agreement Caveat 3410428 under File DASZ 20/2006 dated July 26, 2006 (By-Law No. 189/2006), be amended as follows:***

    A. That Clause 5 be deleted and the following substituted therefor:

    "5. A minimum side yard setback of 10 feet (3.048 metres) shall be maintained where the lot flanks Leila Avenue."

2. ***That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 20/2006 (By-Law No. 189/2006) 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.***

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 believes an 8 foot (2.44 metre) side yard is not feasible but is willing to recommend a 10 foot (3.048 metres) side yard for lots flanking on Leila Avenue given there are thousands of examples of ten foot side yards on corner lots throughout the City.

PUBLIC HEARING SUMMARY

File: ZAA 13/2008

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

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

Applicant: Genstar Development Company (Brett Shenback)

Subject:



Premises Affected: 2 Sava Way

Exhibits Filed:

1. Application dated May 30, 2008
2. Notification of Public Hearing dated June 4, 2008
3. Manitoba Status of Title 2206620
4. Letter of authorization dated May 27, 2008 from Genstar Titleco Limited to Genstar Development Company
5. Amber Trails Phase 8 Concept Plan
6. Zoning Agreement DASZ 20/2006

7. Zoning Caveat 3410428
8. Report from the Planning and Land Use Division dated July 1, 2008
9. Inspection Report
10. Photograph of a comparable corner lot at 102 Agnes Arnold submitted at the public hearing by Jerry Klein, in support of the application
11. Audio Recording of representations

REPRESENTATIONS:

In Support:

Jerry Klein, Genstar Development Company

In Opposition

Nil

For the City:

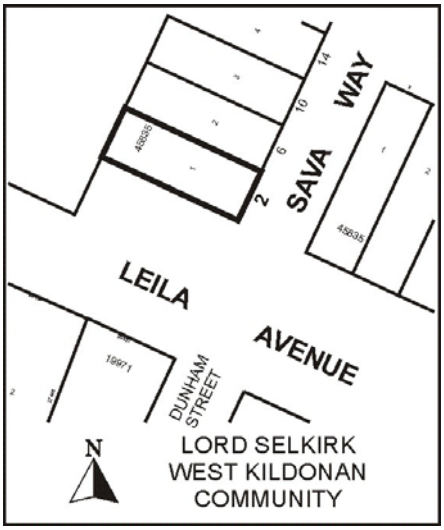
Ms S. Matile, Land Development Engineer, Planning, Property and Development Department
Mr. M. Robinson, Planner, Planning, Property and Development Department
Mr. N. Yauk, Planner, Planning, Property and Development Department

Exhibit "8" referred to in File ZAA 13/2006

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: July 1, 2008
File: ZAA 13/2008
Related Files: DASZ 20/06
Subject: Application to amend the existing zoning agreement to DASZ 20/06 by amending clause 5, which requires a minimum side yard setback of 10 metres (32.8 feet) for all residential lots with flankage on Leila Avenue
Location: 2 Sava Way



Applicant: Genstar Development Company (Brett Shenback)
Owner: Genstar Titleco Limited
Recommendation: Adjournment

Site Description

The subject property is located at the northwest corner of Leila Avenua and Sava Way in the Amber Trails neighbourhood of the Old Kildonan ward.

North: Single-family residences zoned "R1-M" Residential
South: Leila Avenue, then single-family residences zoned "R1-L" Residential
East: Single-family residences zoned "R1-M" Residential
West: Future single-family residential lands, part of Amber Trails Phase 9

Background

As a condition of approval for DASZ 20/06, the Public Works Department requested minimum rear yard and side yard setbacks for lots abutting Leila Avenue, for the purpose of noise attenuation. These conditions were approved by Council, without objection by the developer, and included in the zoning agreement for the subject lands.

Description of the Proposed Development

The applicant wishes to amend the existing zoning agreement to DASZ 20/06 by amending clause 5, which requires a minimum side yard setback of 10 metres (32.8 feet) for all residential lots with flankage on Leila Avenue. The applicant seeks to have the side yard setback reduced to 2.44 metres (8 feet) for the subject lot.

Analysis

The yard of the subject property was to be established to allow for a minimum side yard of 10.0m, to the principal dwelling. The minimum side yard was stipulated to provide additional separation between the Leila Avenue roadway and the principal dwelling on a typical lot. The provision of this additional separation is related to the attenuation of traffic noise and has been planned taking into account future traffic volumes on Leila Aveue, which will occur when this area of the City is fully developed and Leila Avenue is further extended and widened.

In order to determine whether minimum noise attenuation standards[1] can still be met with a reduced setback, the Public Service requested that the applicant provide a noise analysis.[2] The applicant has indicated that they are not prepared to provide this analysis.

In light of this, the Public Service recommends that this matter by adjourned until such time as the applicant has prepared and submitted this analysis to the City for review.

Provided that this analysis substantiates that the minimum noise attenuation standards can be met with a reduced setback, the Public Service will be in a position to support the application.

Recommendation

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

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[1] The “standard” calls for a maximum Design Noise level in the “typical” outdoor recreational area of a residential building lot of 65dBA L_{dn}

[2] The noise analysis would include projected future traffic volumes on the subject street and the percentage of truck traffic. An allowance is made in the calculation to account for the fact that noise is more intrusive during the night time hours (11:00p.m. – 7:00a.m.)

- A noise analysis is required to determine if minimum noise attenuation standards can be met with a reduced setback.
- At this time, the applicant has indicated that they are not prepared to provide this analysis
- The Public Service recommends that this matter be adjourned until such time as the applicant has prepared and submitted this analysis to the City for review.

However, if Community Committee wishes to approve this application, the required conditions are as follows:

Amended Conditions of Approval

1. That Zoning Agreement Caveat 3410428 under File DAZ 20/2006 dated July 26, 2006 (By-Law No. 189/2006), be amended as follows:

   A. That Clause 5 be deleted and the following substituted therefore:

   A minimum side yard setback of 2.44 metres shall be maintained where the lot flanks Leila Avenue

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 20/2006 (By-Law No. 189/2006) 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.

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

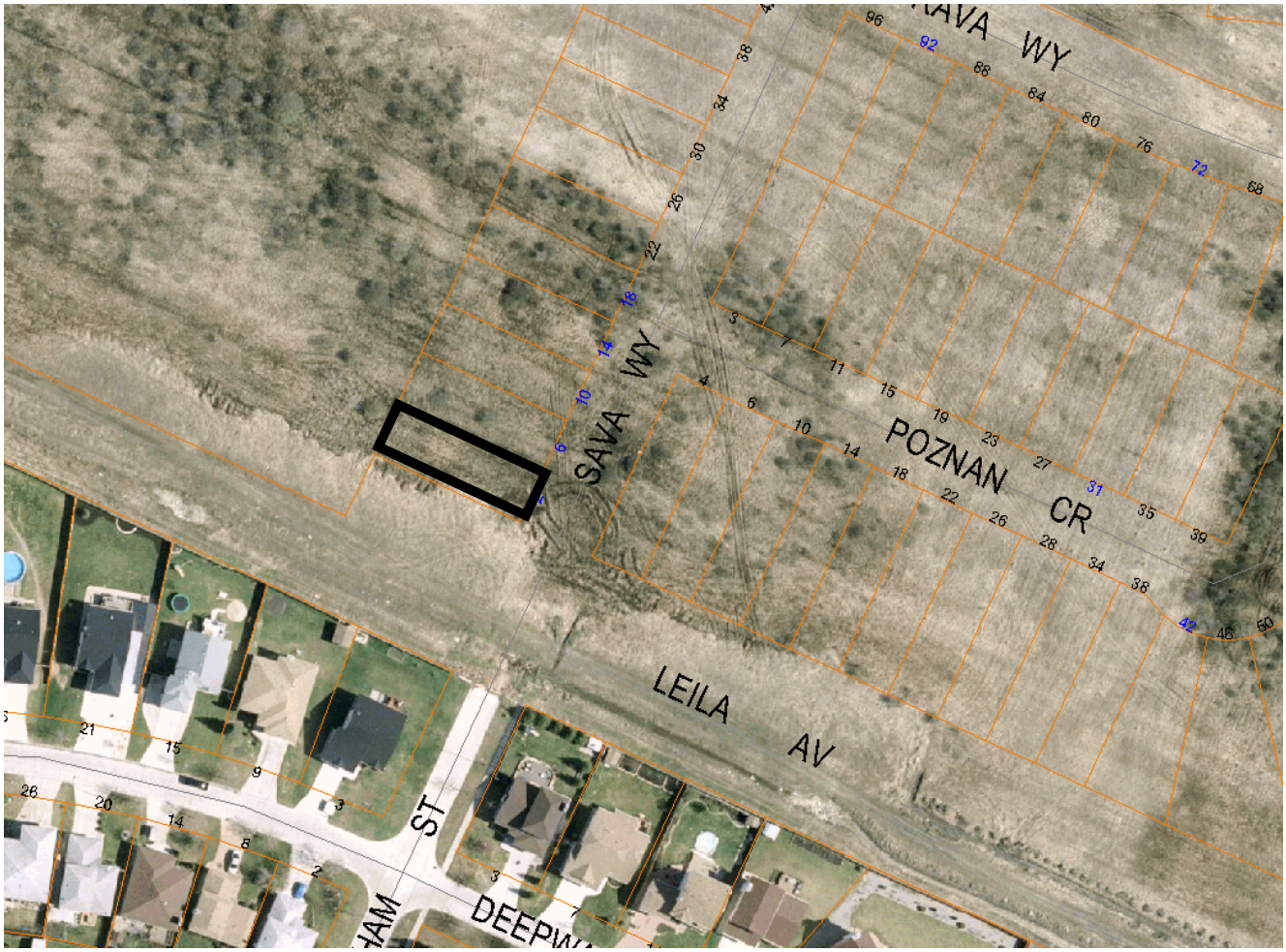

Figure 1: Aerial Photo (Flown in 2005)