Agenda - Council - September 24, 2008

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

Item No. 15 Zoning Agreement Amendment - 2061 Brookside Boulevard (Old Kildonan Ward) File ZAA 6/2008

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 under File DAZ 229/78 dated July 19, 1978 (By-law No. 2195/79), be amended as follows:

   A. That the following words be added at the end of Clause 4, namely:

      4. "Should water and sewer services be installed and the existing ditch removed by the City, the owner shall sod or seed along the most westerly twenty (20) feet of the land, and maintain same thereafter to the satisfaction of the Director of Planning, Property and Development."

   B. That Clause 5 be deleted in its entirety.

   C. That Clause 6 be deleted and replaced with the following new Clause 6, namely:

      "6. That the parking lot, loading spaces, access aisles and driveways shall be surfaced with a washed gravel base, and a dust inhibitor applied twice annually, all to the satisfaction of the Director of Planning, Property and Development."

   D. That Clause 7 be deleted in its entirety.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 229/78 (By-Law No.2195/79) 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 June 24, 2008, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendments, namely:

- That recommendation 1 be deleted and replaced with the following new recommendation 1, namely:

    1. That Zoning Agreement under File DAZ 229/78 dated July 19, 1978 (By-law No. 2195/79), be amended as follows:

        A. That the following words be added at the end of Clause 4, namely:

            4. "Should water and sewer services be installed and the existing ditch removed by the City, the owner shall sod or seed along the most westerly twenty (20) feet of the land, and maintain same thereafter to the satisfaction of the Director of Planning, Property and Development."

        B. That Clause 5 be deleted in its entirety.

        C. That Clause 6 be deleted and replaced with the following new Clause 6, namely:

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

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

> "6. That the parking lot, loading spaces, access aisles and driveways shall be surfaced with a washed gravel base, and a dust inhibitor applied twice annually, all to the satisfaction of the Director of Planning, Property and Development."

D. That Clause 7 be deleted in its entirety,

and forwarded to the Standing Policy Committee on Property and Development.

RE: **Zoning Agreement Amendment - 2061 Brookside Boulevard**
File ZAA 6/2008

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

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

Report date: **June 27, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 24, 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 under File DAZ 229/78 dated July 19, 1978 (By-law No. 2195/79), be amended as follows:

   A. ***That the following words be added at the end of Clause 4, namely:***

      4. "Should water and sewer services be installed and the existing ditch removed by the City, the owner shall sod or seed along the most westerly twenty (20) feet of the land, and maintain same thereafter to the satisfaction of the Director of Planning, Property and Development."

   B. That Clause 5 be deleted ***in its entirety***.

   C. ***That Clause 6 be deleted and replaced with the following new Clause 6, namely:***

      "6. That the parking lot, loading spaces, access aisles and driveways shall be surfaced with a washed gravel base, and a dust inhibitor applied twice annually, all to the satisfaction of the Director of Planning, Property and Development."

   D. That Clause 7 be deleted ***in its entirety.***

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 229/78 (By-Law No.2195/79) 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 agreed in part with the administrative comments contained in the report of the Planning and Land Use Division dated June 1, 2008.

2. The Lord Selkirk-West Kildonan Community Committee has been advised that no other businesses up to the subject property on Brookside Boulevard have been required to install landscaping along their properties, other than grass.

PUBLIC HEARING SUMMARY

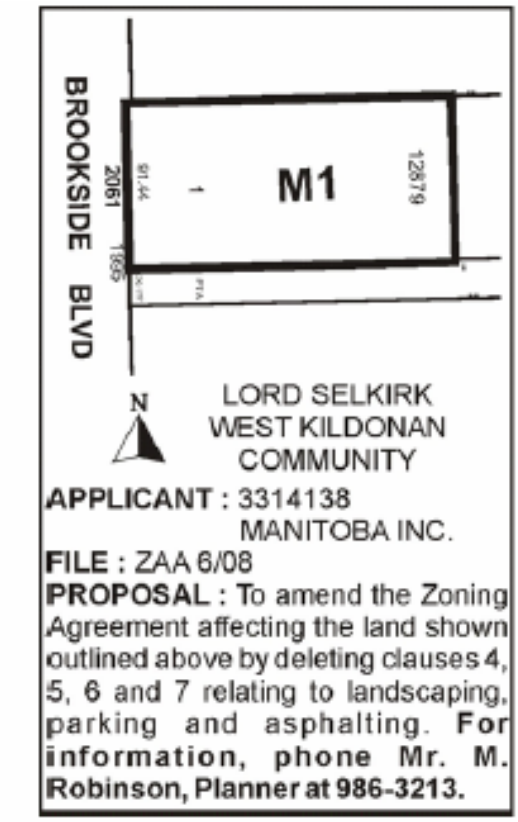
File: ZAA 6/2008

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

Public Hearing: June 24, 2008
West Committee Room
Council Building, 510 Main Street

Applicant: 3314138 Manitoba Ltd. (Allan Peters)

Subject:



Premises Affected: 2061 Brookside Boulevard

Exhibits Filed:
1. Application dated April 28, 2008
2. Notification of Public Hearing dated April 30, 2008
3. Manitoba Status of Title 1477788

4. Letter of authorization dated March 25, 2008 from 33134138 Manitoba Ltd. to Allan Peters
5. Surveyor's Sketch (undated)
6. Zoning Agreement DAZ 229/78
7. Plans (2 pages)
8. Report from the Planning and Land Use Division dated June 1, 2008
9. Inspection Report
10. Audio Recording of representations

REPRESENTATIONS:

In Support:

Allan Peters, on behalf of 3314138 Manitoba Ltd

In Opposition

Nil

For the City:

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

Exhibit "8" referred to in File ZAA 6/2008

Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: **June 1, 2008**
File: **ZAA 6/2008**
Related Files: **DAV 08-124966/C**
Subject: **Application to amend an existing zoning agreement (DAZ 229/78) by removing clauses 4, 5, 6, & 7**

Location: **2061 Brookside Blvd.**



Applicant: **3314138 Manitoba Ltd. (Allan Peters)**
Owner: **Same**

Recommendation: **Approval, in part**

Site Description
The subject property, which is zoned "M2" Industrial, is located on Brookside Blvd, between Inksbrook and Jefferson, in the neighbourhood of the Old Kildonan ward.

North: Industrial use zoned "C3" Commercial
South: Industrial use zoned "M1" Industrial
East: Industrial use zoned "M1" Industrial
West: Brookside Blvd, then the RM of Rosser

Background

1978
In 1978, as a condition of approval for DAZ 229/78, a zoning agreement was applied to the subject property. Among other things, the zoning agreement required the following

1. That the westerly twenty (20) feet of the land shall be installed and maintained in accordance with plans submitted to the City of Winnipeg (Clause #4)
2. That parking shall be provided at a ratio of one (1) parking space for every three (3) employees to be employed on the premises (Clause #5)
3. That all parking and loading spaces, access aisles, and driveways shall be surfaced with asphalt or concrete (Clause #6)
4. That all site improvements were to be done within six months of the issuance of an occupancy permit for any building to be erected on the land. (Clause #7)
5. That no outdoor storage shall be permitted (Clause #8)

2008
In early 2008, the property owner made application to expand the subject use, by adding a second truck storage building. At that time, upon reviewing the site plan for expansion, it was determined that conditions #4, 6, 7, and 8 of the zoning agreement were never complied with.

The expansion plans, which required plan approval, were deemed to be acceptable by the Lord Selkirk-West Kildonan Community Committee, provided that a letter of credit in the amount of $127,470 be provided to the City to guarantee the undertaking of asphalt and landscaping works, as required under the Zoning Agreement, prior to the issuance of building or development permits.

Description of the Proposed Development
In lieu of submitting a letter of credit to the City of Winnipeg and subsequently undertaking the required landscaping and asphalting, the applicant is seeking approval to remove clauses 4, 5, 6, & 7, which would remove the obligation to asphalt and landscape[1].

[1] In order to fully remove the obligation to asphalt the lot, a variance will also be required. This is being heard at the Board of Adjustment on July 2, 2008.

Analysis

Clause #4
When the zoning agreement was struck (1978), street edge landscaping was not a Zoning By-law requirement. Consequently, one could argue that the subject property was treated unfairly by having to provide landscaping which wasn't, at that time, required of every property in the area.

However, upon the adoption of Zoning By-law 200/2006, the City of Winnipeg now requires a higher standard of landscaping for all properties in the City, irrespective of land use type.

For instance, all industrial properties now require street edge landscaping, as follows:

a. A minimum of one deciduous or coniferous tree for each 30 feet of linear street frontage, plus three shrubs for each 20 feet of linear street frontage

Since this is the case, the Division believes that the subject clause is fair, consistent with what is being expected of other properties, in step with Plan Winnipeg policies 3B-06v and 5E-01, and should be upheld.

Clause #5
Zoning By-law 200/2006 has parking requirements which apply to the subject use and ensure that an adequate amount of parking will be provided. In light of this, the Division recommends that this clause be removed.

Clause #6
The Planning and Land Use Division recommends denial of applications for gravel parking lots because they cause the tracking of gravel material onto adjoining public streets and lanes, which results in the need for additional street cleaning and thereby increases maintenance costs. Material also ends up in the land drainage sewer system, thereby increasing the need for maintenance of that system as well.

Additionally, gravel lots often create excessive amounts of dust, which may have an adverse impact on adjacent properties.

For these reasons, the Division recommends that this clause not be removed.

Clause #7
This clause is no longer necessary, since the deadline spoken of in this clause expired almost 30 years ago. Consequently, the Division recommends that it be removed.

Recommendation

The Planning and Land Use Division recommends removal of clauses 5&7 and does not recommend removal of clauses 4&6, for the following reasons:

Clause 5
Zoning By-law 200/2006 has parking requirements which apply to the subject use and ensure that an adequate amount of parking will be provided.

Clause 7
This clause is no longer necessary, since the deadline spoken of in this clause expired almost 30 years ago.

Clause 4
The subject clause is fair, consistent with what is being expected of other properties, and in step with Plan Winnipeg policies 3B-06v and 5E-01.

Clause 6
- Gravel parking lots cause the tracking of gravel material onto adjoining public streets and lanes, which results in the need for additional street cleaning and thereby increases maintenance costs.
- Material also ends up in the land drainage sewer system, thereby increasing the need for maintenance of that system as well.
- Gravel lots often create excessive amounts of dust, which may have an adverse impact on adjacent properties.

However, should the Community Committee wish to approve the application in its entirety, the following new condition should be considered:

That dust inhibitor be applied to all gravel portions of the parking lot, loading areas, and aisleways, a minimum of two times per year, and at other times as required by the City of Winnipeg, to the satisfaction of the Director of Planning, Property, and Development.

Recommended Conditions of Approval

1. That Zoning Agreement under File DAZ 229/78 dated July 19, 1978 (By-law # 2195/79), be amended as follows:

   A. That Clause 5 be deleted
   B. That Clauses 7 be deleted.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 229/78 (By-Law No.2195/79) 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 6/2008



Figure 1: Aerial Photo (Flown in 2005)