Minute No. 59
Report - Standing Policy Committee on Property and Development - November 25, 2008

Item No. 3 **Correction of Errors and Omissions in Winnipeg Zoning By-law No. 200/2006 - 55 Windmill Way (Charleswood - Tuxedo Ward) eFile EZ-DAZ**

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That Winnipeg Zoning By-law No. 200/2006 be amended to correct an error and omission in the zoning maps as outlined in Attachment "A" to the report from the Director of Planning, Property and Development dated November 14, 2008.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Minutes - Executive Policy Committee - December 10, 2008

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

DECISION MAKING HISTORY:

Moved by Councillor Fielding,

That the recommendation of the Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On November 25, 2008, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

RE: DAZ 235/2008 (55 Windmill Way) – Correction of Errors and Omissions in Winnipeg Zoning By-law No. 200/2006

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Director, Planning Property and Development

REPORT DATE: November 14, 2008

RECOMMENDATION:

1. **That Winnipeg Zoning By-law No. 200/2006 be amended to correct an error and omission in the zoning maps as outlined in Attachment "A".**
2. **That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.**

Report Summary

Key Issues:

- During the zoning map conversion process for the Winnipeg Zoning By-law Review, the zoning of the site at 55 Windmill Way was converted to a multi-family zoning district (RMF-L). This zoning district does not fully reflect the development rights that existed on the property when the By-law came into force and effect on March 1, 2008.
- One of the intentions of the mapping exercise was to have a minimal impact on development rights. An error was made in applying the zoning district label to this property. The more appropriate zoning district is Residential Mixed Use district (RMU).
- This error can be resolved by processing a rezoning to RMU as correction of an error or omission in the Winnipeg Zoning By-law.
- Under the City of Winnipeg Charter, Council may amend a zoning by-law without a public hearing if the amendment corrects an error or omission and does not prejudice the rights of any person.

Implications of the Recommendation(s):

General Implications

(X) None

( ) For the organization overall and/or for other departments

( ) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s):

Policy Implications

(X) No

( ) Yes

Comment(s):

Regulatory Implications

(X) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s): There are no regulatory impacts as the amending by-law proposes only to correct an error in an existing by-law.

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s): As the proposed amendment only recommends a change to the zoning map forming part of a by-law, there is no financial impact associated with the amendment.

Report

REASON FOR THE REPORT:
Under the City Organization By-law No. 7100/97, the Standing Policy Committee on Property and Development is responsible for planning and land use matters in the city, outside the downtown, including the Winnipeg Zoning By-law No. 200/2006.

HISTORY:
On December 19 2007 Council passed Winnipeg Zoning By-law No. 200/2006 which came into force on March 1 2008. An omnibus amending by-law passed by Council in July 2008 corrected a number of errors and omissions in the by-law, and subsequent amending by-laws have corrected additional errors and omissions which have come to light. This amending by-law will continue to update the Zoning By-law to make it more accurate by correcting irregularities in the zoning of individual properties.

DISCUSSION:
In September 2006, Council approved a rezoning of the subject site at 55 Windmill Way from RM-2 to RM-7 under File No. DAZ 211/2006 to accommodate a condominium development with underground parking and some main floor commercial uses. The proposal also required variances for reduced yards and parking (DAV 135282/2006D) as well as a conditional use order for the proposed commercial uses (DCU 135278/2006D). All the required development applications were approved and a zoning agreement put in place to restrict billboard signage on the site.

On December 19 2007, Council passed Winnipeg Zoning By-law 200/2006 which came into force on March 1 2008. As the by-law has been put to practical use, the Public Service has become aware of certain errors and omissions that occurred during the drafting process.

The mapping exercise under the Winnipeg Zoning By-law Review converted the existing zoning district labels on the zoning maps to the new zoning district labels based on an objective set of mapping rules. The exercise did not entail a comprehensive review of each property in the city to determine its existing use or its existing package of development rights. According to the mapping rules, the subject property was converted from RM-7 to RMF-Large.

The owners of the subject property are proposing to move forward on plans for a mixed use development of residential and commercial uses. Upon review, it was noted that the new zoning does not reflect development rights on the property which were established under the most recent series of development applications (noted above, in September 2006). The RM-7 Multi-Family Residential zoning approved under DAZ 211/2006 provided for residential multi-family development, and the conditional use order allowed for the full list of commercial uses under the previous C1 Commercial zoning district (under the former Winnipeg Zoning By-law 6400/94). A number of retail,

personal service and office uses were listed as Conditional in the multi-family residential zoning districts under the former Winnipeg Zoning By-law 6400/94. However, the new Zoning By-law 200/06 does not follow a similar zoning model, and does not provide for commercial uses in multi-family zoning districts. The result is that the subject property has lost the right to certain commercial uses and the owners do not have the option of applying for a conditional use order to restore those rights.

One of the principles of the Winnipeg Zoning By-law Review was to convert the existing zoning (under Winnipeg Zoning By-law 6400/94) to the new zoning district under Winnipeg Zoning By-law 200/06 which most closely resembles the range of development rights available to the property. The intent was to have as little impact as possible on existing development rights.

Though it would have been impractical for the City to look at all active agreements for each property, the City cannot ignore, when brought to its attention, that the intent of the mapping review (to reflect existing development rights) was not satisfied in this case. Instead the subject property has lost all rights to an integral commercial component planned for the site. Conversion to RMU would satisfy the intent of the mapping review and restore previously existing development rights to the subject property.

Under Section 276 of The City of Winnipeg Charter, Council may amend a zoning by-law without giving notice of a hearing in respect of the proposed amendment, holding a hearing, or receiving a report from a hearing body where it considers that the proposed amendment is to correct an error or omission and does not prejudice the rights of any person. The proposed amendment is not considered substantive in nature and has no policy impacts. Therefore, the Public Service recommends that the Winnipeg Zoning By-law No. 200/2006 be amended without a public hearing.

Financial Impact Statement **Date:** November 12, 2008

Project Name:
DAZ 235/2008 - Correction of Errors and Omissions in Winnipeg Zoning By-law No. 200/2006, 55 Windmill Way

COMMENTS:

The recommendation included in this report is that Winnipeg Zoning By-law No. 200/2006 be amended to correct errors and omissions in the text and maps as outlined in Attachment "A". There are no financial implications associated with this recommendation.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

- Legal Services Division

External Consultation With:

- None

THIS REPORT SUBMITTED BY:

Planning Property and Development Department
Office of the Director
Prepared by: Valdene Buckley, MCIP
PPD File No. DAZ 235/2008

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ATTACHMENT "A"

THE CITY OF WINNIPEG

BY-LAW NO.

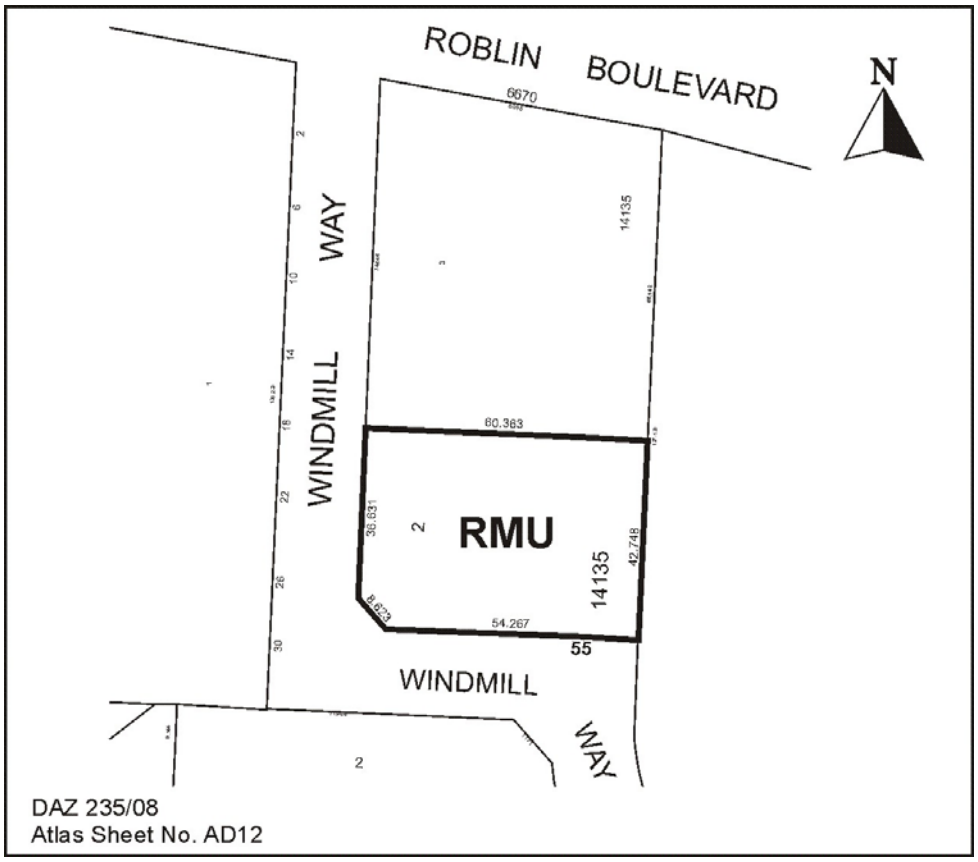
A By-law of THE CITY OF WINNIPEG to amend Winnipeg Zoning By-law No. 200/2006 to correct errors and omissions (zoning of land located at 55 Windmill Way in the Assiniboia Community).

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Zoning

1 *The Winnipeg Zoning By-law No. 200/2006 is amended by adding the following in Schedule B:*

2(20) Notwithstanding anything elsewhere contained in this By-law or shown on the Zoning Maps, the lands designated on the plan below as "RMU" are hereby zoned as an "RMU" RESIDENTIAL MIXED USE DISTRICT, the zoning districts and zoning district boundaries are hereby located as shown on that plan, and the Zoning Maps shall hereafter be read and construed as shown on that plan.



DONE AND PASSED this day of , 2008.

_____
Mayor

_____
City Clerk

Approved as to planning details:

_____
for Director of Planning, Property and Development

Approved as to form:

_____
for Acting City Solicitor/Manager of Legal Services