Agenda - Council – May 19, 2010

Report - Standing Policy Committee on Property and Development – May 4, 2010

Item No. 6 Zoning Agreement Amendment – 51 Courage Place
(St. Vital Ward)
File ZAA 9/2009

STANDING COMMITTEE RECOMMENDATION:

On May 12, 2010, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee and submits the following to Council:

1. That the application for a zoning agreement amendment under File ZAA 9/2009 be rejected.

Report - Standing Policy Committee on Property and Development – May 4, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 12, 2010, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On May 4, 2010, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 13, 2010, the Riel Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development that the application for zoning agreement amendment under File ZAA 9/2009 be rejected.

On March 15, 2010, the Riel Community Committee did not hear any representations on the application and adjourned the public hearing to its meeting on Tuesday, April 13, 2010 at 5:00 p.m., in the Council Building, 510 Main Street.

RE: **Zoning Agreement Amendment – 51 Courage Place**
File ZAA 9/2009

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

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

Report date: **April 14, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 13, 2010, the Riel Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development that the application for a zoning agreement amendment under File ZAA 9/2009 be rejected.

The Riel Community Committee provided the following supporting reason for its recommendation:

1. When the Courage Place Subdivision was originally approved in 1993, it was made clear that no vehicular approaches would be allowed to or from Willowgrove Road.

PUBLIC HEARING SUMMARY

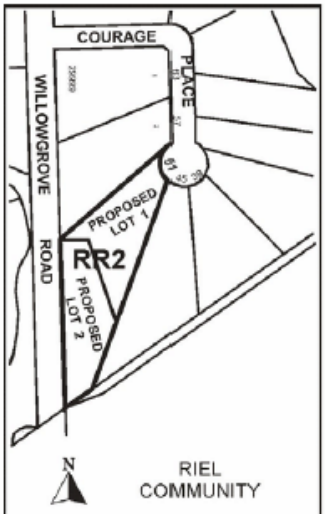
File: ZAA 9/2009

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

Public Hearing: April 13, 2010
Council Chamber
Council Building, 510 Main Street

Applicant: Lindsay Leoppky

Subject:



APPLICANT : LINDSAY LOEPPKY
FILE : ZAA 9/09
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above by deleting Clause 2 to allow for a vehicular approach off of Willowgrove Road in conjunction with DASSF 541/09. **For information, phone Mr. J. Wintrup, Planner at 986-5102.**
DEMANDEUR : LINDSAY LOEPPKY
RÉFÉRENCE : MCZ 9/09
PROJET : Modification de la convention de zonage s'appliquant au bien-fonds indiqué ci-dessus par l'abrogation de l'alinéa 2 afin de permettre l'aménagement d'une voie d'accès aux véhicules depuis le chemin Willowgrove en conjonction avec le FADL 541/09. **Pour obtenir des renseignements, veuillez communiquer avec M. J. Wintrup, urbaniste, au 986-5102.**

Premises Affected: 51 Courage Place

Exhibits Filed:

1. Application dated December 11, 2009
2. Notification of Public Hearing dated December 21, 2009
3. Revised Notification of Public Hearing dated January 8, 2010
4. Revised Notification of Public Hearing dated January 20, 2010
5. Manitoba Status of Title 1974415
6. Caveat No. 1730693 dated October 26, 2003
7. Surveyor's Building Location Certificate and sketch dated April 2, 2009
8. Report from the Planning and Land Use Division dated March 8, 2010
9. Inspection Report
10. Communication from Todd Gorman in opposition to the application
11. Notice of Adjournment dated March 16, 2010
12. Communication dated April 6, 2010, from Lorrie Cousineau in opposition to the application
13. Supporting documentation in opposition to the application submitted by Robert Tyler at the Public Hearing on April 13, 2010
14. Audio Recording of representations of public hearing held on April 13, 2010

REPRESENTATIONS:

In Support:

B. Holodryga
Lindsay Loeppky
John Neufeld

In Opposition

Eunice Gill
Lorrie Cousineau and Denis Grenibu
Todd Gorman
Robert Tyler (representing Eunice and Daryl Gill)

For the City:

Ms. S. Matile, Land Development Engineer, Planning, Property and Development Department
Mr. R. Kostiuk, Planner, Planning, Property and Development Department

Exhibit "8" referred to in File ZAA 9/2009

ADMINISTRATIVE REPORT

ISSUE: ZAA 9/09– 51 Courage Place – Public Hearing

Critical Path: Riel Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Himbeault	NA	NA	

RECOMMENDATIONS

1. That Zoning Agreement under File DASZ 6/1993 dated July 22, 1993 (By-law 6222/1993), be amended as follows:

   A. That Clause 2 be deleted and the following substituted therefore:

   That with the exception of the parcel set aside as public reserve land and the land identified as Lot 2 under proposed DASSF 541/2009 (formerly Lot 3, Plan 29999) , no vehicular approach shall be constructed or used connecting any part of the land to Willowgrove Road

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 6/1993 (By-Law No. 6222/1993) 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.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations in this report are implemented, a development permit can be issued for the redevelopment of the subject land, subject to the recommended conditions of approval.

HISTORY

In 1993, when the subject twelve (12) lot subdivision was established under DASZ 6/1993, there were a number of conditions outlined in the accompanying zoning agreement. For example under clause 4 of the aforementioned agreement, no buildings or structures were to be constructed on Lot 12, which was later essentially set aside as a public reserve strip. In addition, clause 2 specified that no vehicular approaches would be permitted from any of the lots in the subdivision onto Willowgrove Road.

CONSULTATION

In preparing this Report there was consultation with:

N/A

SUBMITTED BY

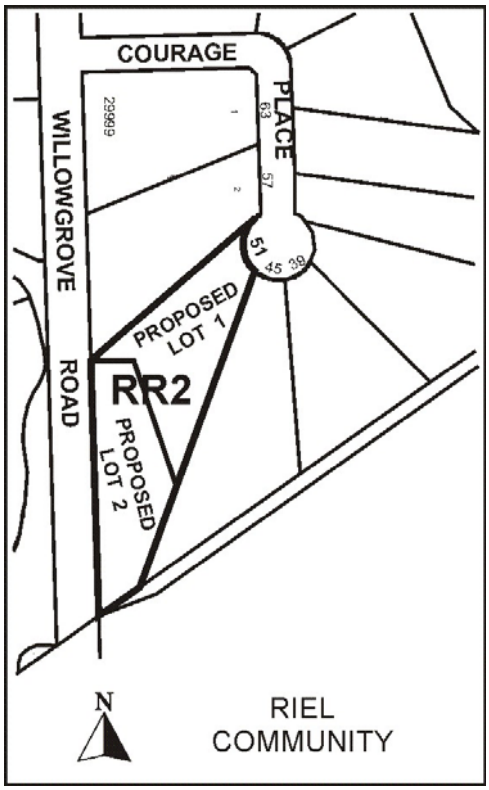
Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	Kevin Lalor
Date	March 08, 2010
File	ZAA 09/2009

List of Schedules and Attachments

1. Attachment 1 – Planning Discussion

Attachment 1 – Planning Discussion

DATE	March 08, 2010
FILE	ZAA 09/2009
RELATED FILES	DASZ 6/93; Pre-App 09 115865; DASSF 541/09
COMMUNITY	RIEL Community
NEIGHBOURHOOD	5.543
SUBJECT	The applicant wishes to amend Clause 2 of Zoning Agreement DASZ 6/93 to permit the maintenance of an existing private approach onto Willowgrove Road from proposed Lot 2.
LOCATION: **LEGAL DESCRIPTION:**	51 Courage Place Lot 3 Plan 29999 , NW ¼ 31-9-4
APPLICANT:	Lindsay Loeppky
OWNER:	Lindsay Loeppky



RECOMMENDATION	Approve with conditions

REPORT SUMMARY

- The applicants have requested that Clause 2 of Zoning Agreement DASZ 6/93 be amended in order to legitimize an existing approach from the rear of their lot at 51 Courage Place onto Willowgrove Road. If successful, they will follow up with a short - form subdivision (DASSF 541/09) creating two lots, the new one of which will have primary access to Courage Place.

- The Planning Department supports the proposed amendment which would effectively legalize the existing approach to Willowgrove Road.

- The Planning Department , in conjunction , with all other City Departments circulated, also endorses the proposed short form subdivision . The creation of proposed lot 1 and the anticipated construction of a new dwelling on that site would fill in an unattractive gap in the cul-de-sac which has been there for years. The neighbourhoods apparently would regard the proposed lot split and addition of a new dwelling as a marked improvement over the current situation.

SURROUNDING LAND USES AND ZONING:



Existing Land Use and Zoning:

There currently is a two story dwelling and several accessory buildings occupying the site. The land is zoned " RR-2" Rural Residential.

Surrounding Land Use and Zoning:

Adjoining properties to the east and north are all occupied with newer dwellings and zoned " RR-2" Rural Residential. The lots, in this area , are all un-serviced and have either pump -out tanks or septic fields and wells or cisterns. Lands adjacent to the south are within the Rural Municipality of Richot and abut the floodway. Properties to the west , some of which are occupied with dwellings, lie along the Seine River and are either zoned " RR-5" Rural Residential or " RR-2" Rural Residential.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicants have made two applications pertaining to the subject parcel of land. The first relates to the subject Zoning Agreement Amendment application; the approval of which will grant the applicants legal right to **maintain** access to their land via the approach to Willowgrove Road.

If the applicants are successful in amending clause 2 of the original agreement, they will proceed with DASSF 541/1009, which will effectively permit them to split Lot 3 into two parcels of equal area. Proposed lot 2, upon which sits the existing dwelling and accessory buildings, will have a private approach to Willowgrove Road; and proposed lot 1 will have frontage on Courage Place.

It should be noted that the applicants, in April 2009, were asked to submit a Pre- Application for review. They concurred with the City's request and subsequently all City Departments circulated (Water & Waste, Public Works, Fire Department, Waterways & the Winnipeg Floodway Authority) indicated that they did not have any opposition to either the proposed amendment or short form subdivision.

ANALYSIS AND ISSUES

The subject approach has served the dwelling at 51 Courage Place for over a decade with no discernable negative impact on the neighbouring community or Willowgrove Road itself. If the applicants were , at this point, denied the right to access Willowgrove Road, they would be forced to construct an alternative approach to Courage Place which would be over 500' in length. That would not, in our view, be an acceptable solution to either the applicant or the existing homes currently fronting onto Courage Place. It is therefore recommended that your Committee endorse the requested amendment to the original zoning agreement.

RECOMMENDATION

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

- The existing approach in question has been in place and utilized for over a decade.

- Willowgrove Road is an improved all weather road that is maintained by the City on a year round basis.