Agenda - Council – September 22, 2010

Report - Standing Policy Committee on Property and Development – September 14, 2010

Item No. 21 Zoning Agreement Amendment – 765 Dufferin Avenue (Mynarski Ward) File ZAA 6/2010

STANDING COMMITTEE RECOMMENDATION:

On September 15, 2010, 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 the application for a zoning agreement amendment under File ZAA 6/2010 be rejected.

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

Report - Standing Policy Committee on Property and Development – September 14, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 15, 2010, 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 14, 2010, 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 September 7, 2010, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development that the application for a zoning agreement amendment under File ZAA 6/2010 be rejected.

On July 6, 2010, the Lord Selkirk-West Kildonan Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on September 7, 2010 at 5:00 p.m. in the Council Building, 510 Main Street.

RE: **Zoning Agreement Amendment - 765 Dufferin Avenue**
File ZAA 6/2010

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

Prepared by: **Inga Skundberg, Committee Clerk**
Lord Selkirk - West Kildonan Community Committee

Report date: **September 8, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 7, 2010, the Lord Selkirk - West Kildonan Community Committee concurred 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 6/2010 be rejected.

The Lord Selkirk - West Kildonan Community Committee provided the following supporting reason for its recommendation:

1. The existing Zoning Agreement provides renewed hope in the area and to amend the agreement to permit a use not currently allowed would not be consistent with the surrounding area.

PUBLIC HEARING SUMMARY

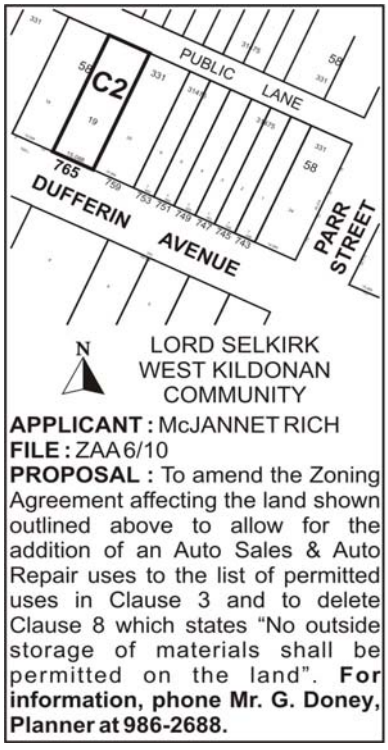
File: ZAA 6/2010

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

Public Hearing: September 7, 2010
Council Chamber
July 6, 2010
West Committee Room
Council Building, 510 Main Street

Applicant: McJannet Rich (Frank Johnson)

Subject:



Premises Affected: 765 Dufferin Avenue

Exhibits Filed:
1. Application dated April 26, 2010
2. Notification of Public Hearing dated April 29, 2010
3. Manitoba Status of Title 2198947
4. Letter of authorization dated March 3, 2010 from Alaa Alsaady to Frank Johnson

5. Surveyor's Building Location Certificate and sketch dated December 21, 2005
6. Zoning Agreement Caveat 3342110
7. Drawing of subject property
8. Report from the Planning and Land Use Division dated June 28, 2010
9. Inspection Report
10. Notice of Adjournment dated July 8, 2010
11. Petition in opposition to the application purporting to contain the signatures of 30 area residents, submitted by Krista Tellier
12. Petition in support of the application purporting to contain the signatures of 18 area residents, submitted by Frank Johnson, McJannet Rich, Applicant, at the public hearing
13. Audio Recording of representations of public hearing held on September 7, 2010

REPRESENTATIONS:

In Support:

Alaa Alsaady
Charisse Ballesteros
Michael Chura
Gilbert Ducharme
Jennifer Fawcett
Pearl Gordon
Christopher Gordon
Ryan Hanford
Jonathan Jackson
Frank Johnson, McJannet Rich
Kerri Kobold
Amuer Msir
Ilyah Rahamm
Charlene Towegishig

In Opposition

Abe & Pat Dyck
Richard Lavallee
Emile Nobess
Mr. & Mrs. William Saulnier
Marc & Krista Tellier

For Information:

Wayne Thompson

For the City:

Mr. G. Doney, Senior Planner, Planning, Property and Development Department
Ms S. Matile, Land Development Engineer, Planning, Property and Development Department

Exhibit "8" referred to in File ZAA 6/2010

ADMINISTRATIVE REPORT

Title: ZAA 6/2010 – 765 Dufferin Avenue

ISSUE: For consideration at the public hearing of the application to amend the zoning agreement under By-law 172/2006 (File DAZ 202/2006)

Critical Path: Lord Selkirk – West Kildonan Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council, as per the Development Procedures By-law and *The City of Winnipeg Charter*

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	n/a	n/a	

RECOMMENDATIONS

That the application to amend the zoning agreement under By-law 172/2006 (File DAZ 202/2006) be rejected.

REASON FOR THE REPORT

The report is regarding the application to amend the zoning agreement under By-law 172/2006 (File DAZ 202/2006) to add the use of auto repair and sales to the list of permitted uses in Clause 3 and to delete Clause 8, which prohibits outside storage of materials. The Planning and Land Use Division recommends rejection because the proposed uses are in compatible with adjacent and nearby residential uses.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, a development permit cannot be issued for the establishment of an auto repair use or an auto sales use at 765 Dufferin Avenue.

HISTORY

On June 28, 2006, Council concurred in the recommendations of the Standing Policy Committee on Property and Development [which were consistent with the recommendations of the Planning and Land Use Division] and adopted the following:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A" for File DAZ 202/2006 dated March 27, 2006, to a "C2" Commercial District subject to the following:

   A. That the applicant enter into a zoning agreement [the amendment application of which is the subject of this report] with the City of Winnipeg…

The aforementioned zoning agreement was entered into to protect the adjacent and nearby residential uses from incompatible commercial uses.

On July 16, 2008, Council concurred in the recommendation of the Standing Policy Committee on Property and Development [which were consistent with the recommendations of the Planning and Land Use Division] that the application for a Zoning Agreement Amendment under File ZAA 3/2007 not be proceeded with. The application was to: remove clause #8, which states "no outdoor storage of materials shall be permitted on the land" and add "automobile sales, rentals, service and/or repair" to the list of permitted uses in clause #3.

CONSULTATION

Consultation was not warranted to prepare this report.

SUBMITTED BY

Department: Planning, Property and Development
Division: Planning and Land Use
Prepared by: J. Glen Doney, Senior Planner
Date: June 28, 2010
File: ZAA 6/2010

Attachment

- Attachment 1 – Planning Discussion

Attachment 1 – Planning Discussion

Date: June 28, 2010

File: ZAA 6/2010

Community: Lord Selkirk – West Kildonan

Neighbourhood: Dufferin, 3.301

Subject: application to amend the zoning agreement under By-law 172/2006 (File DAZ 202/2006) to add the use of auto repair and sales to the list of permitted uses in Clause 3 and to delete Clause 8, which prohibits outside storage of materials

Location: 765 Dufferin Avenue

Legal Description: Lot 19, Block 58, Plan 331



Applicant: Frank Johnson of McJannet Rich
1308 – 220 Portage Avenue, Winnipeg, R3C 0A5

Owner: Alaa Alsaady

Recommendation: rejection

Summary

- The report is regarding the application to amend the zoning agreement under By-law 172/2006 (File DAZ 202/2006) to add the use of auto repair and sales to the list of permitted uses in Clause 3 and to delete Clause 8, which prohibits outside storage of materials.
- The Planning and Land Use Division recommends rejection because the proposed uses are not compatible with adjacent and nearby residential uses.

The Planned Area (The Site)

The planned area is on the north side of Dufferin Avenue, between Parr and Arlington Streets. It is approximately 7350 square feet and 49.5 feet wide.

As shown in Figure 1 of this attachment, a non residential building is in the planned area and is nearly abutting Dufferin. It appears that the planned area is not in use. However, it's use has recently been "automobile repairs," which was established despite that it is not allowed under the zoning agreement.

Figure 1 also shows that residential uses are immediately west and east of the planned area and across an adjacent public lane. It also shows that industrial uses are across Dufferin Avenue from the planned area.

Figure 2 shows that the planned area is in a "C2" Commercial Community District and is adjacent to two "R2" Two-Family Districts and near another "R2" District. An "M1" Manufacturing Light District is across Dufferin Avenue from the planned area.

A zoning agreement limits the uses of the planned area to "contractor's establishment" and all uses permitted in the "R2-T" District of Zoning By-law 6400/94, which was the zoning by-law in effect when the zoning agreement was established, and prohibits outside storage of materials. The zoning agreement does not allow any of the proposed uses.

The planned area is in a Neighbourhood policy area of Plan Winnipeg and an Industrial policy area is across Dufferin from the planned area. It is likely that similar policy areas will be in place when the new plan, OurWinnipeg, comes into force.

The Proposed Development

The letter of intent states that the proposal is to "establish an automobile / automobile parts sales and service" use. It is understood that the proposed automobile parts sales use would sell only parts for automobiles sold or serviced in the planned area.

Therefore, the zoning agreement must be amended to allow these uses to establish.

Analysis

Plan Winnipeg 2020 Vision

It is of note that Policy 3A-01, "Promote Orderly Development," of *Plan Winnipeg 2020 Vision* states: "…the Neighbourhood designation signifies "areas of local identity with mutually supportive uses generally including a residential mix together with a variety of… commercial, and possibly industrial uses, at a scale and density compatible with each other…"

In addition, the planned area is in a neighbourhood designated as a Major Improvement Area in Plan Winnipeg, which indicates that the neighbourhood is in serious need of revitalization.

Zoning

The planned area is in a “C2” Commercial Community District of Zoning By-law 200/2006. Even though the “C2” District allows a wide range of uses, including the proposed uses, the proposed uses cannot establish in the planned area because of the aforementioned zoning agreement.

Compatibility with the Neighbourhood

The proposed development is not compatible with the neighbourhood because the proposed uses are fairly intense and would be adjacent and near residential uses. Furthermore, a residential use would be more appropriate given the proximity of other residential uses and that

Recommendations

The Planning and Land Use Division recommends rejection of the application to amend the zoning agreement because the proposed amendments would allow uses in the planned area that are incompatible with adjacent and nearby residential uses.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: J. Glen Doney

PPD File ZAA 6/2010

Figure 1: 2009 Aerial Photography



Figure 2: Zoning

June 2010

