Minute No. 318
Report - Standing Policy Committee on Property and Development – April 5, 2011

Item No. 3 **Rezoning – former CNR Oak Point Line ROW South of Academy/North of Kingsway (River Heights-Fort Garry Ward) File DAZ 225/2010 [c/r SPA 3/2010, DAZ 226/2010 and DAV 165924/2010D]**

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the amendment to the Airport Vicinity Protection Area Planned Development Overlay Map (Schedule D of The Winnipeg Zoning By-law No. 200/2006) to move the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane east of the old railway right-of-way, as per the map shown on Schedule 'A', be approved.

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 – April 5, 2011

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 20, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the City Centre Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On April 5, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 7, 2011, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

RE: **Rezoning – former CNR Oak Point Line ROW South of Academy/North of Kingsway**
File DAZ 225/2010

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

Prepared by: **Josie Marques, Senior Committee Clerk**
City Centre Community Committee

Report date: **March 8, 2011**

COMMUNITY COMMITTEE RECOMMENDATION:

On March 7, 2011, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development:

1. That the proposed amendment to the Airport Vicinity Protection Area Planned Development Overlay Map (Schedule D of The Winnipeg Zoning By-law No. 200/2006) to move the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane east of the old railway right-of-way, as per the attached map shown on Schedule 'A', to the Report of the Winnipeg Public Service dated March 3, 2011, be approved.

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

The City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. This phase of the development does not access onto Academy Road, the lane should only be used by the area residents, therefore limiting traffic issues

2. There is a huge demand for people wanting to live in the area.

3. The development is the best infill we can have.

PUBLIC HEARING SUMMARY

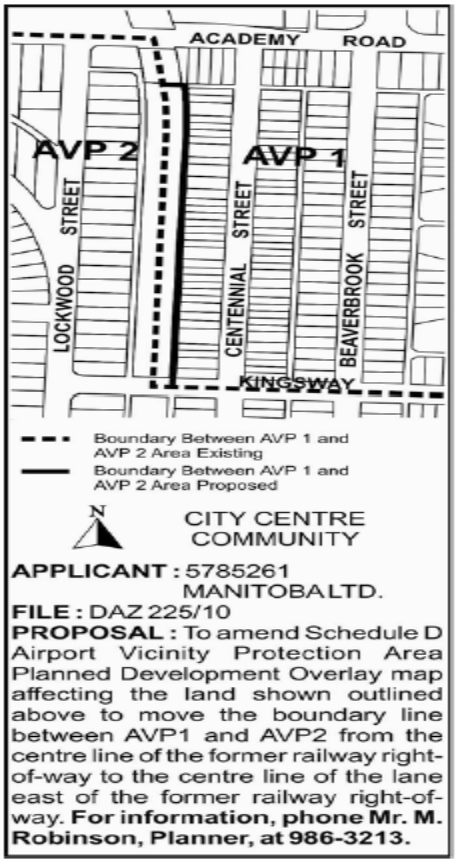
File: DAZ 225/2010

Before: City Centre Community Committee
Councillor Gerbasi, Chairperson
Councillor Orlikow
Councillor Smith

Public Hearing: March 7, 2011
Council Chamber
Council Building, 510 Main Street

Applicant: 5785261 Manitoba Ltd. (Marc Kipnes)

Subject:



Premises Affected:	former CNR Oak Point Line ROW South of Academy/North of Kingsway
Exhibits Filed:	1. Application dated October 26, 2010 2. Notification of Public Hearing dated February 1, 2011 3. Manitoba Status of Title 2343912 4. Drawing of subject property 5. Plans (7 pages) 6. Report from the Planning and Land Use Division dated March 3, 2011 7. Inspection Report 8. Audio Recording of representations of public hearing held on March 7 2011

REPRESENTATIONS:

In support:

Myles Kraut
Nicole Rexer
Ernie Walter
Yaron Walter

In Opposition:

Andrea Bacler
Kerry Pihulak
Juan Sumoza

For Information:

Kevin Howard

For the City:

Mr. K. Raban, Land Development Administrator, Planning, Property and Development Department
Mr. M. Robinson, Senior Planner, Planning, Property and Development Department

Exhibit "6" referred to in File DAZ 225/2010

ADMINISTRATIVE REPORT

Revised

Title: DAZ 225/2010 –Former CNR Oak Point Line ROW South of Academy/North of Kingsway

Issue: For consideration at the public hearing for an amendment to the Airport Vicinity Protection Area Planned Development Overlay Map (Schedule D of Zoning By-law 200/2006) to move the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane east of the old railway right-of-way, as per the attached map

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

AUTHORIZATION

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

RECOMMENDATIONS

1) That the proposed amendment to the Airport Vicinity Protection Area Planned Development Overlay Map (Schedule D of Zoning By-law 200/2006) to move the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane east of the old railway right-of-way, as per the attached map shown on Schedule 'A', be approved.

2) That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

The Report is being submitted for the Committee's consideration of the development application at the Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Winnipeg Public Service are concurred in, consideration can be given to the associated rezoning application and variance application. (Files DAZ 226/10, DAV 10-165924/D) If these applications are all approved, development permits may be issued.

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	Michael Robinson, AICP
Date:	March 3, 2011
File No.	DAZ 226/2010

List of Schedules and Attachments

1. Appendix 'A' – Planning Discussion
2. Appendix 'B' – Aerial Photograph
3. Appendix 'C' – Letter from Winnipeg Airport Authority
4. Attachment 'A' – Schedule 'A' Amended Airport Vicinity Protection Area Planned Development Overlay Map - PDO-1 Airport Vicinity

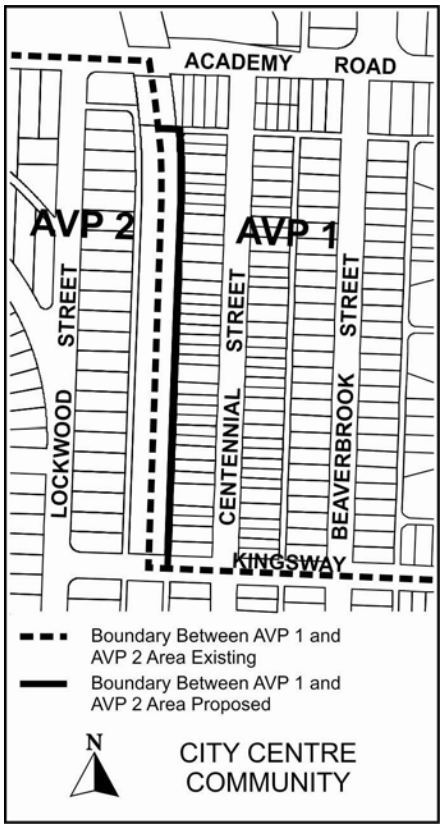
APPENDIX 'A'

DATE:	March 3, 2011
FILE:	DAZ 225/2010
RELATED FILES:	DAZ 226/10, DAV 10-165924/D, SPA 3/10
COMMUNITY:	City Centre Community
NEIGHBOURHOOD #:	1.626

SUBJECT: An amendment to the Airport Vicinity Protection Area Planned Development Overlay Map (Schedule D of Zoning By-law 200/2006) to move the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane east of the old railway right-of-way, as per the attached map

LOCATION: Former CNR Oak Point Line ROW
South of Academy/North of Kingsway

LEGAL DESCRIPTION: PT BLK 27 PLAN 1538



APPLICANT: 5785261 Manitoba Ltd. (Marc Kipnes)

OWNER: Same as Above

RECOMMENDATION: Approval

REPORT SUMMARY:

- The proposed amendment to Schedule D of the Zoning By-law 200/2006 is to move the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane to the east of the old railway right-of-way as per the attached map.
- Moving the boundary is required prior to rezoning the subject lands for multiple-family residential development.
- The proposed development, which will be considered in the associated rezoning and variance applications, is the final phase of the Centennial Park development, which includes a total of 92 bungalow condominium units between Corydon Avenue and Academy Road on the former Oak Point Subdivision Railway land.
- The line dividing AVP 1 and AVP2 was drawn at a time (1994) when the subject property was a ROW for the railroad
- The Winnipeg Public Service recommends that the amendment be approved

SITE DESCRIPTION

The subject property, which is zoned "R1-L" Single-Family Residential District, "R1-M" Single-Family Residential District, "R2" Residential Two-Family Residential District, and "C1" Commercial District is located north of Kingsway Avenue and south of Academy Road, between Centennial and Lockwood Streets in the River Heights neighbourhood of the River Heights-Fort Garry ward.

North: Undeveloped land zoned "C1" Commercial District
South: Undeveloped land which was rezoned "RMF-S" Multiple-Family District and approved for bungalow condominiums in 2009
East: Residences zoned "R1-M" Single-Family Residential District
West: Residences zoned "R1-L" Single-Family Residential District

BACKGROUND

See associated report for SPA 3/2010

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed amendment is to move the boundary line between AVP 1 and AVP 2 from the centerline of the old railway right-of-way north of Kingsway and south of Plan 42703 to the centerline of the lane to the east of the old railway right-of-way as per the map on the first page of Appendix 'A'.

Currently, the subject property is divided equally between Area 1 and Area 2 of the, the history of which is discussed in the Background section. Consequently, existing policies restrict development on this land to 1-2 single-family homes (by conditional use).

Moving the boundary is required prior to rezoning the subject lands for multiple-family residential development. The proposed development, which will be considered in the associated rezoning and variance applications (DAZ 226/2010, DAV 10-165924/D), is the final phase of the Centennial Park development, which includes a total of 92 bungalow condominium units between Corydon Avenue and Academy Road on the former Oak Point Subdivision Railway land. The first two phases have already been approved and preliminary site work has commenced.

Reason for application
Whereas SPA 3/2010 amends the maps in the Winnipeg Airport Vicinity Development Plan, this application amends the same map in Schedule D of the Winnipeg Zoning By-law 200/2006. Schedule D, which is a planned development overlay (PDO), embeds the zoning policies of the Plan in the Zoning By-law, for clarity and ease of use.

ANALYSIS AND ISSUES
At the time the Plan was produced, when the lines were drawn between policy areas, efforts were made to use property lines and existing right-of-ways, to avoid placing a line down the middle of a property. In that way, the line at this location was drawn down the middle of the Oak Point Subdivision Railway lands, which at that time was still owned by CN and designated as a ROW.

Subsequently, as detailed in the above chronology, the land was sold off to private interests, for the purpose of land development.

It should be noted that the Winnipeg Airport Authority has submitted correspondence (Appendix C) indicating that they do not object to the proposed amendment and associated rezonings provided that the structures include acoustical treatment and that purchasers are made aware, through purchase agreements and Condo declarations and By-laws, of airport vicinity noise.

RECOMMENDATIONS
As it stands, given that the land has been vacant for some time and is in private ownership, residential development, in the eyes of the Winnipeg Public Service, is the best and most sustainable use of the land.

Furthermore, since the land is no longer used as a right-of-way, the basis for drawing the line down the middle of the property has changed.

Given these circumstances, it is now appropriate to move the line, per the proposed amendment, so that the property can be developed.

For these reasons, the Winnipeg Public Service ***recommends that the Airport Vicinity Protection Area Planned Development Overlay Map (Schedule D in Zoning By-law 200/2006) be amended in accordance with the map identified as Schedule 'A' (see Attachment 'A')***

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

Report Prepared by: Michael Robinson, AICP
PPD File # DAZ 226/2010

APPENDIX 'B'



Figure 1: Aerial Photo (Flown in 2009)

APPENDIX 'C'

WINNIPEG AIRPORTS AUTHORITY

February 8, 2011

Mr. Michael Robinson, Senior Planner
City of Winnipeg
City Centre Community
Unit 15 – 30 Fort Street,
Winnipeg, MB, R3C 4X5

Re: Proposed Secondary Plan Amendment: Airport Vicinity Protection Area Secondary Plan (By-Law 6378/94) Part of Former Railway Line North of Kingsway South of Academy Road; City File Reference: SPA 3/10

Dear Mr. Robinson:

We respond to the application received from 5785261 Manitoba Ltd. for an amendment to the map in the Airport Vicinity Protection Area affecting the above-referenced land.

The Winnipeg Airports Authority Inc. will not object to the rezoning of this specific area as Area II (not restricted from development but requiring acoustical treatment) provided appropriate notation is incorporated on the Condo delegation to the signed owner; bylaws and subsequent purchase agreements acknowledge the airport vicinity noise as a precondition.

Please note that our determination to not object is based on these understandings reached between the developer and the City. Said determination is unique to this particular application for amendment and that the Winnipeg Airports Authority Inc. reserves the right to consider and determine the position respecting any future development. With specific exclusions, all residential development within the identified Noise Protection bylaws is prohibited.

Thank you for contacting us regarding this matter.

Sincerely,

Catherine J. Kloepfer, CGA, FCA
Senior Vice-President Corporate Services
and Chief Financial Officer

Winnipeg Airports Authority Inc.
249 - 2000 Wellington Avenue
Winnipeg, Manitoba R3H 1C2

Tel: 204.987.9400
Fax: 204.987.9401
Web: www.waa.ca

CITY OF WINNIPEG
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PLANNING AND
LAND USE DIVISION

ATTACHMENT 'A'

Schedule "A" for File No. DAZ 225/2010, City Centre Community Committee, dated February 28, 2011

By-Law No.

File No. **DAZ 225/10 c/r DAZ 226/10 & SPA 3/10**

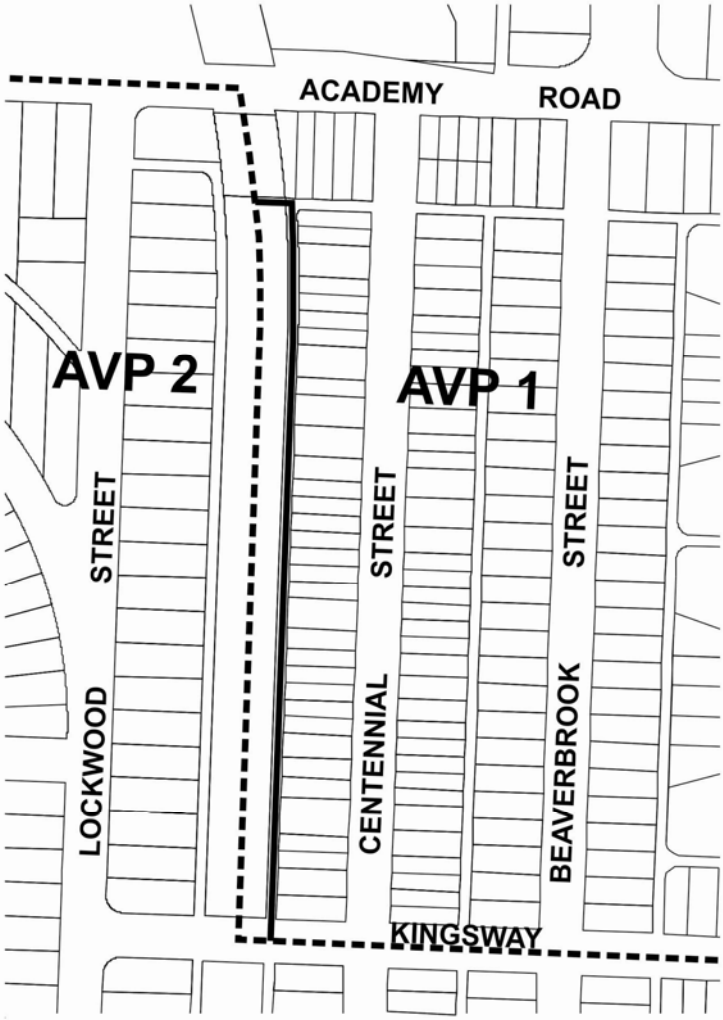
Explanation

A proposed zoning change to By-law No. 200/2006 affecting the land located on the former railway track north of Kingsway, south of Academy Road to amend Schedule D Airport Vicinity Protection Area Planned Development Overlay map affecting the land shown outlined above to move the boundary line between AVP1 and AVP2 from the centre line of the former railway right-of-way to the centre line of the lane east of the former railway right-of-way as shown outlined below.

Atlas Sheet No.

N

AD20 CITY CENTRE COMMUNITY



Boundary Between AVP 1 and AVP 2 Area Existing

Boundary Between AVP 1 and AVP 2 Area Proposed

THIRD READING : EFFECTIVE DATE :

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No.