Agenda – Council – October 19, 2011

Report – Standing Policy Committee on Property and Development – October 4, 2011

Item No. 4 Zoning Agreement Amendment – 998 Keewatin Street (Point Douglas Ward) File ZAA 7/2011

STANDING COMMITTEE RECOMMENDATION:

On October 12, 2011, the Executive Policy Committee concurred in the recommendations 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 DAZ 252/1987, dated September 8, 1987, be amended as follows:

   A. That Clause 4 be deleted and the following substituted therefore:

      4. No building shall be erected or located on the land less than ten (10) feet from the southerly, easterly or northerly property line.

   B. That Clause 11 be deleted and the following substituted therefore:

      11. Fencing required in accordance with that Schedule "A" shall include a light-proof fence, at least four (4) feet in height, erected along the entire southerly property line and along the southerly forty (40) feet of the easterly property line of the land and a light-proof fence, at least six (6) feet in height, erected along the entire westerly property line of the land adjacent to which shall be planted trees, including trees of a coniferous variety.

   C. That the following clause shall be added after Clause 4 and the subsequent clauses renumbered accordingly:

      5. That, before July 1, 2012, at least 10 deciduous trees, having a minimum caliper of 1 ½ inches, shall be established in the south yard and at least two deciduous trees, having a minimum caliper of 1 ½ inches, shall be established in the southerly 40 feet of the east yard.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 252/1987 (By-law No. 5150/89), as approved in Recommendation No. 1.

Report – Standing Policy Committee on Property and Development – October 4, 2011

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the Director of Legal Services and City Solicitor 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 – October 4, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 12, 2011, the Executive Policy Committee concurred in the recommendations 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 October 4, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2011, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendment, namely:

- Amend Recommendation 1.C.5. by deleting the date "July 1, 2011", and replacing it with the date "July 1, 2012",

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

RE: **Zoning Agreement Amendment – 998 Keewatin Street**
File ZAA 7/2011 [c/r DAV 135994/2011D]

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 14, 2011**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2011, 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 DAZ 252/1987, dated September 8, 1987, be amended as follows:
   A. That Clause 4 be deleted and the following substituted therefore:
      4. No building shall be erected or located on the land less than ten (10) feet from the southerly, easterly or northerly property line.
   B. That Clause 11 be deleted and the following substituted therefore:
      11. Fencing required in accordance with that Schedule "A" shall include a light-proof fence, at least four (4) feet in height, erected along the entire southerly property line and along the southerly forty (40) feet of the easterly property line of the land and a light-proof fence, at least six (6) feet in height, erected along the entire westerly property line of the land adjacent to which shall be planted trees, including trees of a coniferous variety.
   C. That the following clause shall be added after Clause 4 and the subsequent clauses renumbered accordingly:
      5. That, before ***July 1, 2012***, at least 10 deciduous trees, having a minimum caliper of 1 ½ inches, shall be established in the south yard and at least two deciduous trees, having a minimum caliper of 1 ½ inches, shall be established in the southerly 40 feet of the east yard.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 252/1987 (By-law 5150/89), 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 Director of Legal Services and City Solicitor 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 subject proposal is a good project.

PUBLIC HEARING SUMMARY

File: ZAA 7/2011 [c/r DAV 135994/2011D]

Before: Lord Selkirk - West Kildonan Community Committee
Councillor Sharma, Chairperson
Councillor Eadie
Councillor Pagtakhan

Public Hearing: September 13, 2011
Council Chamber
Council Building, 510 Main Street

Applicant: J & J Penner Construction Ltd. (Terry McKellar)

Subject:



APPLICANT : J & J PENNER CONSTRUCTION LTD.
FILE : ZAA 7/11
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above by removing Clause No. 4 from Zoning Agreement DAZ 252/87 which states "no building shall be located on the land within 40 feet of the southerly property line, within 10 feet of the easterly property line or within 10 feet of the northerly property line". **For information, phone Mr. G. Doney, Planner at 986-2688.**

Premises Affected: 998 Keewatin Street

Exhibits Filed:

1. Application dated June 2, 2011
2. Notification of Public Hearing dated June 15, 2011
3. Manitoba Status of Title 2011451
4. Letter of authorization dated May 2, 2011 from 4888333 Manitoba Ltd., to J & J Penner Construction Ltd.
5. Surveyor's Building Location sketch dated May 27, 2011

6a. Caveat 1160596
6b. Caveat 1160597

7. Plans (3 pages)

8. Report from the Planning and Land Use Division dated September 1, 2011
9. Inspection Report
10. Audio Recording of representations

REPRESENTATIONS:

In Support:

Terry McKellar
Ted Solodiuk

In Opposition

Nil

For Information:

Nil

For the City:

Mr. G. Doney, Senior Planner, Planning, Property and Development Department
Mr. J. Veitch, Senior Planner, Planning, Property and Development Department

Exhibit "8" referred to in File ZAA 7/2011

ADMINISTRATIVE REPORT

Title: ZAA 7/2011 – 998 Keewatin Street

Issue: application to amend the Zoning Agreement, created under File DAZ 252/1987, by removing Clause 4 from said agreement in order to permit an addition to a commercial building that would be 10 feet from the southern and eastern limits of the planned area (the site)

Critical Path: Lord Selkirk – West Kildonan Community Committee → Standing Policy Committee on Property and Development (only if opposition or if Community Committee's recommendations differ from the recommendations in this report) → Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
Patti Regan	n/a	n/a	n/a

RECOMMENDATIONS

1. That Zoning Agreement DAZ 252/1987, dated September 8, 1987, be amended as follows:
   A. That Clause 4 be deleted and the following substituted therefore:
      4. No building shall be erected or located on the land less than ten (10) feet from the southerly, easterly or northerly property line.
   B. That Clause 11 be deleted and the following substituted therefore:
      11. Fencing required in accordance with that Schedule "A" shall include a light-proof fence, at least four (4) feet in height, erected along the entire southerly property line and along the southerly forty (40) feet of the easterly property line of the land and a light-proof fence, at least six (6) feet in height, erected along the entire westerly property line of the land adjacent to which shall be planted trees, including trees of a coniferous variety.
   C. That the following clause shall be added after Clause 4 and the subsequent clauses renumbered accordingly:
      5. That, before July 1, 2011, at least 10 deciduous trees, having a minimum caliper of 1 ½ inches, shall be established in the south yard and at least two deciduous trees, having a minimum caliper of 1 ½ inches, shall be established in the southerly 40 feet of the east yard.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 252/1987 (By-law 5150/89), 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 Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

REASON FOR THE REPORT

This report is required because the proposed addition does not conform to Zoning Agreement DAZ 252/1987. A second report, recommending approval of Variance Application 11-135994D, is also required because the proposed addition would be less than the minimum rear-yard depth requirement of Zoning By-law 200/2006. A third report will also be required because the plans of the proposed addition must be approved by the Lord Selkirk – West Kildonan Community Committee before a development permit can be issued.

The Planning and Land Use Division recommends approval of Application ZAA 7/2011 because the recommended amendments to Zoning Agreement DAZ 252/1987:

- comply with *OurWinnipeg* and *Complete Communities*; and
- are compatible with the neighbourhood.

The planned area (the site) is:

- encompassing
  - a one-storey, 15,000 square foot commercial mixed-use building that is 39 feet from the south property line of the planned area and 56 from the northern portion of the east property line and 86 feet from the southern portion of said east property line and
  - a surface parking area; and
- near single-family dwellings, a building in which are retail and other commercial uses, a gas station and convenience store and a restaurant.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations in this report, the report on Variance Application 11-135994D and a future report on a future plan approval application (assuming the recommendation would be positive) are concurred in, a development permit for the proposed addition can be issued.

CONSULTATION

Consultation with other City departments not warranted to prepare this report.

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	J. G. Doney
Date	September 1, 2011
File	ZAA 7/2011

Attachment 1 – Planning Discussion…

DATE:	September 1, 2011
FILE:	DAV 11-135994/D
RELATED FILES:	ZAA 7/11
COMMUNITY:	Lord Selkirk-West Kildonan Community
NEIGHBOURHOOD #:	3.325
SUBJECT:	application to amend the Zoning Agreement, created under File DAZ 252/1987, by removing Clause 4 from said agreement in order to permit an addition to a commercial building that would be 10 feet from the southern and eastern limits of the planned area (the site)
LOCATION:	998 Keewatin ST
LEGAL DESCRIPTION:	LOT 1 PLAN 33324 NW 24 11 2E



APPLICANT:	Terry McKellar J & J Penner Construction 93 LOMBARD AVE UNIT 100 WINNIPEG MB R3B 3B1
OWNER:	4888333 MANITOBA LTD ATTN: PAM OR NAB 19 SANTA FE DR WINNIPEG MB R2R 2W4
RECOMMENDATION:	Approval

THE PLANNED AREA (THE SITE)

The planned area, which is shown in the three images in this attachment, is:

- in the Tyndall Park neighbourhood and the Point Douglas Ward;
- approximately 1.2 acres and abutting Weitzel Street and Kniver Avenue;
- encompassing

- a one-storey, 15,000 square foot commercial mixed-use building that is 39 feet from the south property line and 56 from the northern portion of the east property line of the planned area, and 86 feet from the southern portion of said east property line,
- a service/fire lane that is west of the existing building and accessed from Kniver Avenue and
- a surface parking area that is accessed from Kniver Avenue;

- abutting two parcels of land, one of which is in use as a restaurant and the other of which in use as a gas station and convenience store;
- near single-family dwellings and a building in which are retail and other commercial uses;
- in a “C3” Commercial Corridor District, abutting a “PR1” Parks and Recreation 1 District and near another “C3” District, “R1-S” Residential Single-Family [smaller scale] Districts and “R2” Residential Two-Family Districts; and



- in an Areas of Stability policy area and a Recent Community policy area of *Complete Communities*, which is a city-wide secondary plan that came into effect August 17, 2011;
- near Keewatin Street, which provides direct access to a wide variety of land uses such as commercial, institutional, residential and industrial and which is a major Winnipeg Transit bus route; and
- subject to Zoning Agreement DAZ 252/87 that requires: buildings to be more than 40 feet from the south property line of the planned area and more than 10 feet from the easterly property line; and plans of any proposed building or structure to be approved by the Director of Planning, Property and Development and the Lord Selkirk – West Kildonan Community Committee and all to be developed in accordance with said plans.

Direction 1 – Support the Completion of Areas of Stability – of Section 04 – Areas of Stability – of *Complete Communities* states: “Support low to moderate change in low-density neighbourhoods

through development and redevelopment that is complementary to the existing scale, character and built form."

THE PROPOSED DEVELOPMENT

The proposal, which is illustrated below, is to construct a one-storey addition to the south end of the building that would increase its size by just under 4,000 square feet. The addition would extend the building southerly to 10 feet from the south property line and easterly to 10 feet from the east property line of the planned area. The lowest nine feet of the proposed addition's exterior wall cladding would be brick, which is a higher quality material than is often used in developments similar to what is proposed.

The proposed development cannot proceed without:

- Zoning Agreement DAZ 252/87 being amended to allow the proposed addition to be 10 feet from the southerly, and 10 feet from the easterly, property lines, application of which is the subject of this report;
- the minimum rear yard requirement of Zoning By-law 200/2006 being varied to allow the proposed addition to be 10 feet from the southerly property line, application of which has been made under File DAV 11-135994D; and
- plans of the proposed addition being approved by the Director of Planning, Property and Development and the Lord Selkirk – West Kildonan Community Committee, application of which has yet to be made.



ANALYSIS

OurWinnipeg and *Complete Communities*

While the proposed addition would be only one storey and less than 4,000 square feet, it would reduce the depth of portions of the south and east yards from 39 feet to ten feet, and from 86 feet to 10 feet, respectively.

Given that residential uses are near the southern and eastern limits of the planned area, as shown in an image in this attachment, the portions of the yards that would be reduced by the proposed addition should be well landscaped. In addition,

a light-proof fence should be alongside the southern limit, and the southerly 40 feet of the eastern limit, of the planned area to reduce the glare on residential uses caused by vehicles in the planned area..

With the aforementioned landscaping, fencing and higher quality exterior cladding, the proposed addition, and the application that is the subject of this report, would be “complementary to the existing scale, character and built form” (from *Complete Communities*) of the neighbourhood and, therefore, consistent with *Complete Communities* and *OurWinnipeg.*

Compatibility with the Neighbourhood

With its higher quality exterior cladding and landscaping and fencing, the proposed addition, and the application that is the subject of this report, would be complementary to, and compatible with, the neighbourhood.

REASONS FOR RECOMMENDATIONS

The recommendation to replace Clause 4 of the zoning agreement with the following

> No building shall be erected or located on the land less than ten (10) feet from the southerly, easterly or northerly property line;

is to accommodate the proposed addition and to retain a setback requirement from the northerly property line.

The recommendation to replace Clause 11 of the zoning agreement with the following:

> Fencing required in accordance with that Schedule “A” shall include a light-proof fence, at least four (4) feet in height, erected along the entire southerly property line and along the southerly forty (40) feet of the easterly property line of the land and a light-proof fence, at least six (6) feet in height, erected along the entire westerly property line of the land adjacent to which shall be planted trees, including trees of a coniferous variety;

and the recommendation to add the following clause:

> That at least 10 deciduous trees, having a minimum caliper of 1 ½ inches, shall be planted in the south yard and at least two deciduous trees, having a minimum caliper of 1 ½ inches, shall be planted in the southerly 40 feet of the east yard;

are to ensure that the proposed development, and any future redevelopment of the planned area, are compatible with the neighbourhood.

The plan approval clause of the zoning agreement can be used to ensure the aforementioned fencing and landscaping are in accordance with the recommended clauses and to ensure the exterior cladding will have a higher quality appearance than what is often used in similar developments.