**Agenda – Council – September 27, 2012**

**Report – Standing Policy Committee on Property and Development – September 11, 2012**

**Item No. 7 Zoning Agreement Amendment – 15-55 Rothwell Road (Charleswood-Tuxedo Ward) File ZAA 4/2012**

STANDING COMMITTEE RECOMMENDATION:

On September 19, 2012, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee, both as amended, and submits the following to Council:

1. That the Zoning Agreement under File DASZ 34/2011 (not yet registered), be amended as follows:

   A. That Clause 2. A) ii. of the Zoning Agreement which states:
   'That all exterior lighting must be shut off at 10:00 p.m. until 7:00 a.m. daily, (excepting fascia signage and security motion detecting lighting)',
   be deleted.

   B. That Clause 2. A) iv. of the Zoning Agreement be deleted in its entirety and replaced with the following:
   "2. A) iv. That there shall be no mobile signs, rotating signs, banner signs, electronic message board signs, inflatable signs, animated signs, flashing signs and A-board signs on Lots 1 and 3."

   C. Add a new Clause 2. A) v. as follows:
   "2. A) v. That there shall be no mobile signs on Lot 2."

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 34/2011 (not yet registered) 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.

**Report – Standing Policy Committee on Property and Development – September 11, 2012**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 19, 2012, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee, with the following amendments,

- Delete Recommendation 1.B. in its entirety and replace with the following:

  "1.B. That Clause 2. A) iv. of the Zoning Agreement be deleted in its entirety and replaced with the following:

  "2. A) iv. That there shall be no mobile signs, rotating signs, banner signs, electronic message board signs, inflatable signs, animated signs, flashing signs and A-board signs on Lots 1 and 3.""

- Add new Recommendation 1.C. as follows:

  "1.C. That Clause a new Clause 2. A) v. be added to the Zoning Agreement as follows:

  "2. A) v. That there shall be no mobile signs on Lot 2.""

and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 11, 2012, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 10, 2012, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following as follows:

- For Lot 2 only, Recommendation No. 1) b. be deleted in its entirety and be replaced with the following new Recommendation:

**Report – Standing Policy Committee on Property and Development – September 11, 2012**

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

1) b. That Clause 2.A) iv. of the Zoning Agreement as it pertains to Lot 2 only be deleted in its entirety and replaced with the following:

'That there shall be no mobile signs on the entire site.'

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

**RE:** **Zoning Agreement Amendment - 15-55 Rothwell Road**
**File ZAA 4/2012**

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

**Prepared by:** **Danielle Caron, Committee Clerk**
**Assiniboia Community Committee**

**Report date:** **July 11, 2012**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 10, 2012, the Assiniboia 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 the Zoning Agreement under File DASZ 34/2011 (not yet registered), be amended as follows:

   A. That Clause 2. A) ii. of the Zoning Agreement which states:

   'That all exterior lighting must be shut off at 10:00 p.m. until 7:00 a.m. daily, (excepting fascia signage and security motion detecting lighting).' be deleted.

   B. That Clause 2. A) iv. of the Zoning Agreement ***as it pertains to Lot 2 only, ~~be amended as follows~~ be deleted in its entirety and replaced with the following:***

   ***~~2. A) iv. That there shall be no mobile signs, rotating signs, banner signs, electronic message board signs, inflatable signs, animated signs, flashing signs and A-board signs on the entire site.~~***
   ***2. A) iv. 'That there shall be no mobile signs on the entire site.'***

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 34/2011 (not yet registered) 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.

***Note: The wording in bold and italics denotes amendments made by the Community Committee.***

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

1. The Assiniboia Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated July 5, 2012.

**PUBLIC HEARING SUMMARY**

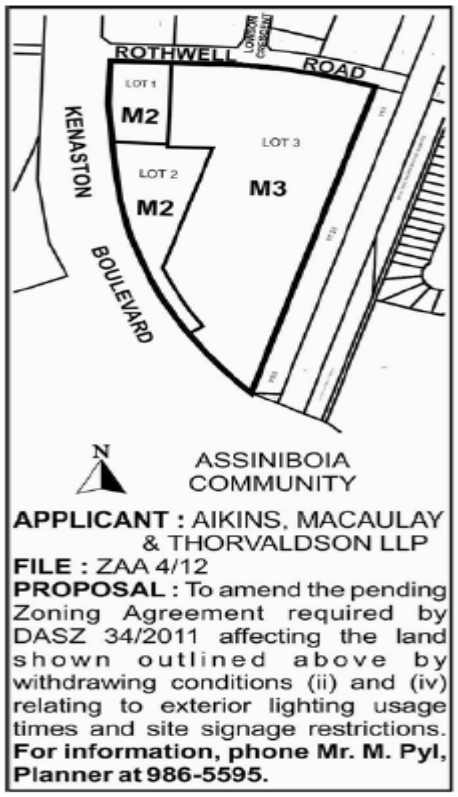
File: ZAA 4/2012

Before: Assiniboia Community Committee
Councillor Havixbeck, Chairperson
Councillor Fielding
Councillor Nordman

Public Hearing: July 10, 2012
Council Chamber
Council Building, 510 Main Street

Applicant: Aikins, MacAulay & Thorvaldson LLP (Robert L. Tyler)

Subject:




Premises Affected: 15 – 55 Rothwell Road

Exhibits Filed:
1. Application dated May 10, 2012
2. Notification of Public Hearing dated May 31, 2012
3. Manitoba Status of Title 1658860/1
4. Letter of authorization dated May 10, 2012 from 65055 Manitoba Ltd. to Pinnacle Auto Sales Limited Partnership

(Mercedes-Benz Winnipeg) and/or their solicitors, Aikins, MacAulay & Thorvaldson LLP (Robert L. Tyler)
5. DASZ 34/2011 adopted by Council January 25, 2012
6. Report from the Planning and Land Use Division dated July 2, 2012
7. Inspection Report
8. Audio Recording of representations

REPRESENTATIONS:

In Support:

Brian Lowes, President, Mercedes Benz, Winnipeg
Robert Tyler
Robert Scaletta

In Opposition:

Nil

For Information:

Matt Glavin, Terracon Development Ltd.

For the City:

Mr. J. Veitch, Acting Principal Planner, Planning, Property and Development Department

Exhibit "6" referred to in File ZAA 4/2012

# ADMINISTRATIVE REPORT

**Title:** ZAA 4/12 - 15-55 Rothwell Road

**Issue:** For consideration at the Public Hearing for a Zoning Agreement Amendment to remove clause 2. A) ii. and amend clause 2. A) iv. that deal with site lighting and site signage respectively

**Critical Path:** Assiniboia 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

1) That the Zoning Agreement under File DASZ 34/2011 (not yet registered), be amended as follows:
    a. That Clause 2. A) ii. of the Zoning Agreement which states:

    *'That all exterior lighting must be shut off at 10:00 p.m. until 7:00 a.m. daily, (excepting fascia signage and security motion detecting lighting).'*

    Be deleted.
    b. That Clause 2. A) iv. of the Zoning Agreement be amended as follows:

    *'That there shall be no mobile signs on the entire site.'*
2) That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 34/2011 (not yet registered) 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.

## REASON FOR THE REPORT

- Zoning Amendment Applications require a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- The applicant is proposing to remove clauses 2 A) ii. And 2. A) iv. from the existing zoning agreement. The clauses deal with site lighting and site signage.
- 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 Urban Planning Division are concurred in, the Zoning Agreement can be amended to accommodate 24 hour exterior site lighting as well as corporate banners / flags and a potential electronic message centre sign while still prohibiting mobile signs.

## CONSULTATION

### In preparing this Report there was consultation with:

N/A

## SUBMITTED BY

| | |
|---|---|
| Department | Planning, Property and Development |
| Division | Urban Planning |
| Prepared by | James Veitch |
| Date: | July 2, 2012 |
| File No. | ZAA 4/12 |

**List of Schedules and Attachments**

- Appendix A – Planning Discussion

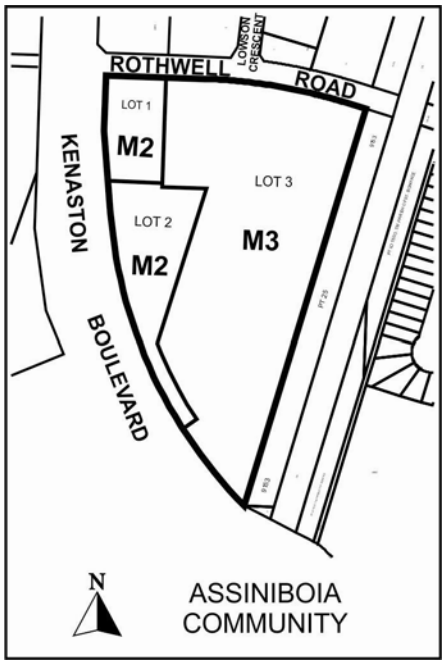
**APPENDIX 'A'**

**DATE:** July 2, 2012
**FILE:** **ZAA 4/12**
**RELATED FILES:** DASZ 34/2011
**COMMUNITY:** Assiniboia
**NEIGHBOURHOOD #:** 2.668

**SUBJECT:** The applicant would like to remove clause 2. A) ii. and amend clause 2. A) iv. within the Zoning Agreement, (not yet registered) that deal with site lighting and site signage

**LOCATION:** 15-55 Rothwell Road

**LEGAL DESCRIPTION:** PT Block 1, Plan 15811 EXC Kenaston Blvd 35278




**APPLICANT:** Aikins, Macaulay & Thorvaldsson LLP (Robert L. Tyler)
30th Floor 360 Main Street
Winnipeg MB R3C 4G1

**OWNER:** 65055 Manitoba Ltd.

**RECOMMENDATION:** Amend the Zoning Agreement

**REPORT SUMMARY:**

- The applicant is seeking to amend two (2) clauses in the Zoning Agreement for DASZ 34/2011.
- The first amendment requested is to remove clause 2 A) ii. which requires all exterior lighting, (excepting illuminated fascia signage and security motion detecting lighting) to be shut off at 10:00 pm until 7:00 am daily; for the following reasons:

    1. **Site Security** – the subject site with the proposed Mercedes Benz dealership will not be protected on all sides of the site by the more typical 'car lot' perimeter security fence deterring random and / or malicious trespassing. As well the site is somewhat secluded from the type of land use activity generators that tend to create an informal third party watch over the site, uses such as adjacent residences or vibrant evening business activity.

        The applicant has indicated the 24-hour site lighting will provide a much needed security over the site during off business hours that motion detection lighting alone cannot guarantee.

- The second amendment requested, (after additional discussion with the Urban Planning Division) is to reword clause 2. A) iv. allowing the potential installation of an electronic message board sign, banners signs, flags, etc., while still prohibiting mobile signs on the subject site:

    2. **Advertising Signage** – the ability for the Mercedes Benz dealership to display their corporate banners and advertise using the most up-to-date electronic technology available is key to their location adjacent to the high speed arterial roadway that is Kenaston Boulevard.

        The dealership representative indicated that electronic message centre, if applied for will meet the Part 5 regulations in the City of Winnipeg Zoning By-law 200/06 governing their location and installation. They also noted if and when banners and/or flags are displayed on site they will be of a very high quality meeting the corporate Mercedes Benz standards and specifications.

**SITE DESCRIPTION**

- The subject property is located on the east side of Kenaston Blvd between Rothwell Rd and the CPR spur line in the Tuxedo Industrial neighbourhood of the Charleswood-Tuxedo ward.
- The subject property is currently being re-zoned to "M2" Manufacturing General district. To allow the establishment of a proposed Mercedes Benz Automobile dealership.
- Adjacent properties include the Tuxedo Business Park to the west across Kenaston zoned "MMU" Manufacturing Mixed Use district, industrial uses to the north across Rothwell zoned "M3", single family dwellings to the east across the railway line zoned "R1-M" Residential Single Family district, and commercial strip mall development to the south on both sides of Kenaston zoned "C4" Commercial Regional district.

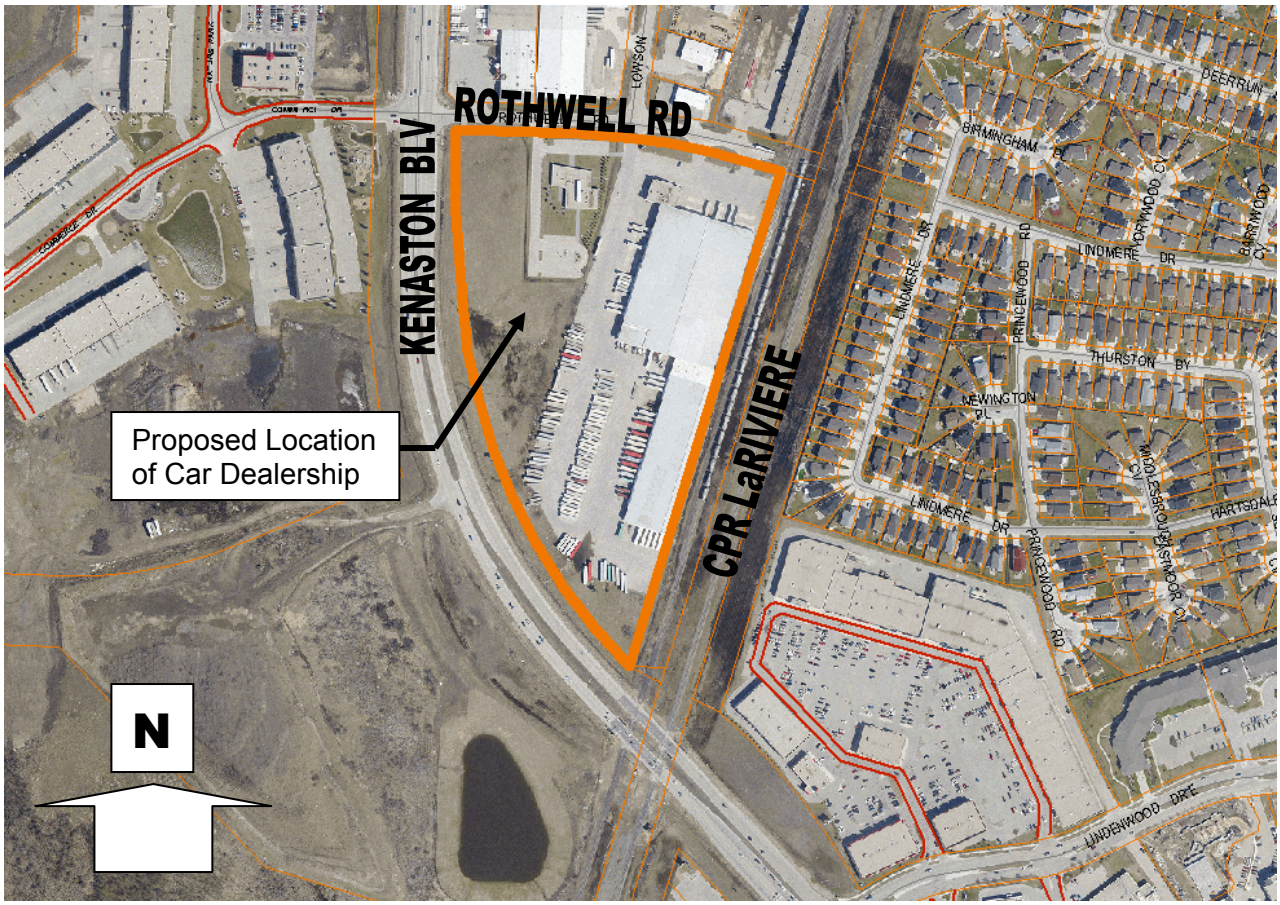



**Figure 1: Site map of subject property and surrounding neighbourhood**

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The application is twofold: Firstly to remove clause 2. A) ii. will allow the subject site to be illuminated 24 hours a day. The second part of the application intends to amend clause 2. A) iv. to allow the installation of electronic signage as well as banners, flags and the like on the site.

## ANALYSIS

### Clause 2. A) ii. Site Lighting

- As discussed above the request to remove this clause of the Zoning Agreement that limits the ability to illuminate the site 24-hours a day is due to the fact that this lighting restriction poses a significant site security risk for the Mercedes Benz dealership.
    - The site is somewhat secluded from activity generating uses that can often provide an informal third party watch over the property. To the west, beyond the 230 foot wide Kenaston Boulevard arterial is a business park that operates on the typical business day schedule. To the east and south of the proposed dealership will be flanked by the existing trucking fleet services followed by a 300 foot wide rail line right of way. To the north beyond the

approximately 90 foot wide Rothwell Road right of way are additional day time industrial uses.

- The site is will not be totally encompassed on all sides by the typical 6 ½ foot height chain-link security fence, leaving it somewhat open to trespassing that could result in vandalism, theft, break-ins, etc.
- The representatives of the proposed dealership have submitted digital 3D renderings illustrating the location of the proposed 20 foot height downward directed full cut-off lighting that will include a 'Night Time Friendly' dimming feature.
- Furthermore, as a result of an ongoing dialogue with the Urban Planning Division, the project representatives agreed to submit a detailed engineered Photo-metrics analysis illustrating how the proposed lighting will meet the industry standard for foot candle readings around the perimeter of the site so the 24-hour lighting will not negatively impact the adjacent context.
- The Photo-metrics plan will be required prior to the installation of the proposed 20 foot height light standards on the subject site.

**Clause 2. A) iv. Signage**

- The Urban Planning Division discussed the applicant's request to remove this clause of the Zoning Agreement that would open the door to all types of signage being permitted on the subject site. After further dialogue it was decided that amending the clause to allow some types of electronic and banner signage while still prohibiting mobile signs was mutually agreeable to both parties.
  - The ability to make use of the 'cutting edge' electronic signage will allow the dealership to maintain an equal competitive footing within the very competitive car sales industry.
  - The proposed location of the electronic signage is significantly removed from the existing residential neighbourhood to the east and will thus not have a detrimental effect on the residents.
  - The proposed electronic signage will be held to the regulations in Part 5: Development and Design Standards of the City of Winnipeg Zoning By-law 200/06 governing their installation:
    - ***'SIGNS***

      ***Regulations for Specific Types of Signs***

      ***182.*** *The following standards apply only to the specific types of signs l listed below:*

      ***Signs Obstructing Views***

      ***(1)*** *No sign, including a mobile sign, may be erected, re-erected, or altered that may interfere with, obstruct the view of, or be confused with any authorized traffic signal, warning sign, or other regulatory or information device.*

      ***Flashing, Animated, Scintillating, Rotating, and Electronic Message Board Signs***

***(2)*** *(a) flashing, animated, or scintillating signs, rotating signs or beacons, and electronic message boards are not permitted in any zoning district except the C2, C3, C4, CMU, MMU, M1, M2 and M3, zoning districts.*

*(b) a Conditional Use Order is required for the erection of a flashing, animated or scintillating sign that has copy height of more than 9 inches , or any rotating sign or beacon.*

*(c) flashing, animated, or scintillating features, rotating features, beacons, and electronic message boards are not permitted on mobile signs.*

*(d) no electronic message board may be located within 100 feet of a pedestrian crosswalk/corridor or an intersection with traffic signals.'*

- In terms of the banners / flags, etc. portion of the clause, the project representatives indicated the any proposed banners / flags, etc. will be subject to the high industry standards of the Mercedes Benz Corporation. After some additional discussion on this issue, the Urban Planning Division is comfortable with the request to amend the clause 2. A) iv. to allow dealership banners, flags, etc. while continuing to prohibit mobile signage on the subject site

- It should also be noted that the subject Zoning Agreement for DASZ 34/2011 if amended as requested will continue to contain a detailed 'Plan Approval' clause that will allow the Urban Planning Division and the Assiniboia Community Committee the opportunity to review and approve *'the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, lighting, fencing, landscaping and signage*…' prior to the issuance of any building or development permit.

**RECOMMENDATION**

1) That the Zoning Agreement under File DASZ 34/2011 (not yet registered), be amended as follows:
   a. That Clause 2. A) ii. of the Zoning Agreement which states:

      *'That all exterior lighting must be shut off at 10:00 p.m. until 7:00 a.m. daily, (excepting fascia signage and security motion detecting lighting).'*

      Be deleted.
   b. That Clause 2. A) iv. of the Zoning Agreement be amended as follows:

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

Report Prepared by: James Veitch
PPD File # ZAA 4/12