Minute No. 455
Report – Standing Policy Committee on Property and Development – June 11, 2013

Item No. 6 **Zoning Agreement Amendment – Southeast Corner of John Angus Drive and Cypress Ridge**
(St. Norbert Ward)
File ZAA 4/2013 [c/r DAV 110517/2013D]

COUNCIL DECISION:

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

1. That the Zoning Agreement under File DASZ 22/2007 dated November 21, 2007 (By-law No. 137/2009), be amended as follows:

   A. That Clause 3(a) of the Zoning Agreement, which states:

      establish and maintain a buffer fifty (50) feet in width along the east boundary of the Owner's Land, within which no residential structures are permitted.

      be amended as follows:

      establish and maintain a buffer twenty (20) feet in width along the east boundary of the Owner's Land, within which no residential structures are permitted.

   B. That the following clause be added after Clause 3 and the subsequent clauses of the Zoning Agreement be renumbered accordingly:

      That, excluding projections permitted under the Zoning By-Law, the maximum height of any building shall be no greater than thirty-five (35) feet.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 22/2007 (By-law No. 137/2009) 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.

Report – Standing Policy Committee on Property and Development – June 11, 2013

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 June 19, 2013, 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 June 11, 2013, 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 May 6, 2013, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service with the following amendment:

- Amend Condition No. 1.A. by deleting the words “twenty-five (25) feet” and replacing with the words “twenty (20) feet”

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

RE: **Zoning Agreement Amendment – Southeast Corner of John Angus Drive and Cypress Ridge**
File ZAA 4/2013

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

Prepared by: **Visa Hutter, Senior Committee Clerk**
Riel Community Committee

Report date: **May 6, 2013**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 6, 2013, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service, as amended and recommended to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement under File DASZ 22/2007 dated November 21, 2007 (By-law No. 137/2009), be amended as follows:

   A. That Clause 3(a) of the Zoning Agreement, which states:

      establish and maintain a buffer fifty (50) feet in width along the east boundary of the Owner's Land, within which no residential structures are permitted.

      be amended as follows:

      establish and maintain a buffer ***twenty ~~five~~ (~~25~~) (20)*** feet in width along the east boundary of the Owner's Land, within which no residential structures are permitted.

   B. That the following clause be added after Clause 3 and the subsequent clauses of the Zoning Agreement be renumbered accordingly:

      That, excluding projections permitted under the Zoning By-Law, the maximum height of any building shall be no greater than thirty-five (35) feet.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 22/2007 (By-law No. 137/2009) as approved in aforesaid Recommendation 1.

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

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

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

1. The Riel Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated April 24, 2013.

2. This is an improvement to the neighbourhood, where existing residential bungalows and townhouses are located on a busy street, it will have the least impact to the neighbourhood.

PUBLIC HEARING SUMMARY

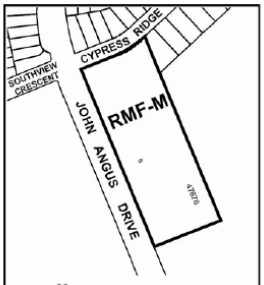
File: ZAA 4/2013

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

Public Hearing: May 6, 2013
Council Building, 510 Main Street

Applicant: Karma Development Corporation (Myles Kraut)

Subject:



APPLICANT : KARMA DEVELOPMENT CORPORATION
FILE : ZAA 4/13
PROPOSAL : To amend the Zoning Agreement (DASZ 22/2007) affecting the land shown outlined above and amend Clause 3(a) relating to multi-family development to read "establish and maintain a buffer of twenty (20) feet in width along the east boundary of the owner's land, within which no residential structures are permitted" to allow for a proposed bareland condominium development. **For information, phone Mr. R. Kostiuk, Planner, at 204-986-7367.**
DEMANDEUR : KARMA DEVELOPMENT CORPORATION
N° DE RÉFÉRENCE : MCZ 4/13
PROJET : Modification de la disposition 3(a) portant sur l'ensemble d'habitations multifamiliales de la convention de zonage (DALZ 22/2007) régissant le bien-fonds indiqué ci-dessus pour les besoins du projet d'aménagement de condominiums de terrain nu, de sorte qu'elle se lise comme suit : « aménager et maintenir une zone tampon de 20 pieds de largeur le long de la limite est du bien-fonds du propriétaire dans laquelle aucune structure résidentielle n'est permise ». **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 204-986-7367.**

Premises Affected: Southeast Corner of John Angus Drive and Cypress Ridge

Exhibits Filed:

1. Application dated March 5, 2013
2. Notification of Public Hearing dated March 14, 2013
3. Manitoba Status of Title 2328723/1
4. Caveat No. 3686682 dated September 10, 2008
5. Letter of authorization dated February 26, 2013 from Ladco Company Limited to Karma Development Corporation
6. Plans (2 pages)
7. Report from the Planning and Land Use Division dated April 24, 2013
8. Inspection Report
9. Audio Recording of the public hearing held on May 6, 2013

REPRESENTATIONS:

In Support:

Michael Carrathers
Marc Kipnes

In Opposition:

Maleen Mendis

For Information:

Richard Moon
Albina Wee

For the City:

R. Kostiuk, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 4/2013

ADMINISTRATIVE REPORT

Title: ZAA 4/2013 – SE John Angus Drive and Cypress Ridge Road Public Hearing

Issue: An application for consideration at the Public Hearing to amend one condition of the zoning agreement that was applied to the land per DASZ 22/2007.

Critical Path: Riel 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
B. Smith	N/A	N/A	

RECOMMENDATIONS

1. That the Zoning Agreement under File DASZ 22/2007 dated November 21, 2007 (By-law No. 137/2009), be amended as follows:

   A. That Clause 3(a) of the Zoning Agreement, which states:

   establish and maintain a buffer fifty (50) feet in width along the east boundary of the Owner's Land, within which no residential structures are permitted.

   be amended as follows:

   establish and maintain a buffer twenty-five (25) feet in width along the east boundary of the Owner's Land, within which no residential structures are permitted.

   B. That the following clause be added after Clause 3 and the subsequent clauses of the Zoning Agreement be renumbered accordingly:

   That, excluding projections permitted under the Zoning By-Law, the maximum height of any building shall be no greater than thirty-five (35) feet.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 22/2007 (By-law No. 137/2009) 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

- Clause 3(a) of the existing zoning agreement on the land includes a minimum setback requirement of 50 feet from the east property line for any residential structure developed for multi-family purposes. The applicant would like to reduce this minimum setback requirement to 20 feet to accommodate a 72 unit townhome/bungalow condominium development on the site.
- A zoning agreement amendment requires a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- 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, Clause 3(a) of the zoning agreement will be changed to create a **25 foot setback** from the east property line instead of 50 feet, and an additional clause will be added to the zoning agreement restricting the maximum height of any building to 35 feet.

HISTORY

Waverley West Southeast Neighbourhood Area Structure Plan (By-Law 140/07)

- On November 21, 2007, Council adopted the *Waverley West Southheast Neighbourhood Area Structure Plan* under By-Law No. 140/2007 (see file SP 2/2007). This area structure plan guides development in the *Southeast Neighbourhood*.

DASZ 22/2007

- On November 21, 2007, Council approved the subdivision and rezoning of land in the Waverley West Southeast Neighbourhood. The developer was required to enter into a

zoning agreement with the City as a condition of approval. Relevant restrictions of the zoning agreement are as follows:

2. The Owner must submit plans showing the location and design of proposed buildings, accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage on the Owner's Land ("Works") to the City's Director of Planning, Property and Development and the Riel Community Committee for approval prior to the issuance of any building or development permit, and thereafter must construct and maintain the works to the satisfaction of the Director.

3. In the event the Owner's Land is developed for multi-family purposes, the Owner must:

(a) establish and maintain a buffer fifty (50) feet in width along the east boundary of the Owner's Land, within which no residential structures are permitted.

(b) establish and maintain at the northeast corner of the Owner's Land, a public pedestrian access-way fifteen (15) feet in width, to link the adjoining street and the proposed public reserve areas and active recreational facilities adjoining the naturalized waterway system.

CONSULTATION

In preparing this report there was consultation with: N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Robert Kostiuk, MCIP
Date:	April 24, 2013
File No.	ZAA 4/2013

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

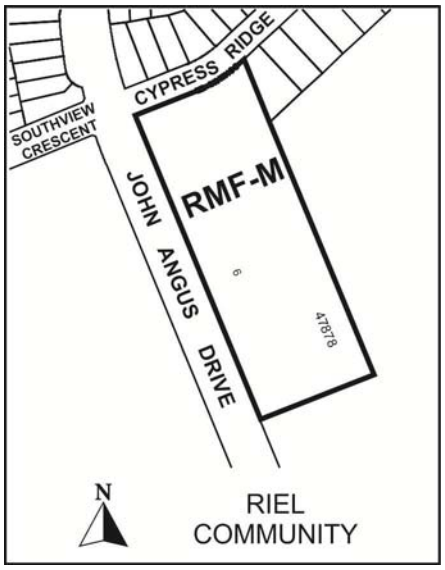
DATE: April 24, 2013

FILE: ZAA 4/2013
RELATED FILES: DAV 13-110517/D (c/r), DASZ 22/2007

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.682

SUBJECT: For consideration at the Public Hearing to amend one condition of the zoning agreement for DASZ 22/2007, which requires a minimum setback of 50 feet for any residential structure from the east property line.

LOCATION: SE Corner of John Angus Drive and Cypress Ridge
LEGAL DESCRIPTION: BLOCK 6 PLAN 47878 108 ST N OTM



APPLICANT: Myles Kraut - Karma Development Corporation
60 SHORE ST SUITE 200
WINNIPEG MB R3T 2C8

OWNER: LADCO COMPANY LIMITED
DAVID BORGER
40 LAKEWOOD BLVD UNIT 200 WINNIPEG MB R2J 2M7

RECOMMENDATION: Approval with modifications

SITE DESCRIPTION

- The subject property is located on the southeast corner of the Cypress Ridge and John Angus Drive intersection in the South Pointe neighbourhood of the St. Norbert Ward.
- The property is vacant and approximately **5 acres in area**.
- The property is located within the Areas of Stability – Recent Communities Policy Area under the Complete Communities Direction Strategy and is zoned "RMF-M" Residential Multi-Family Medium.

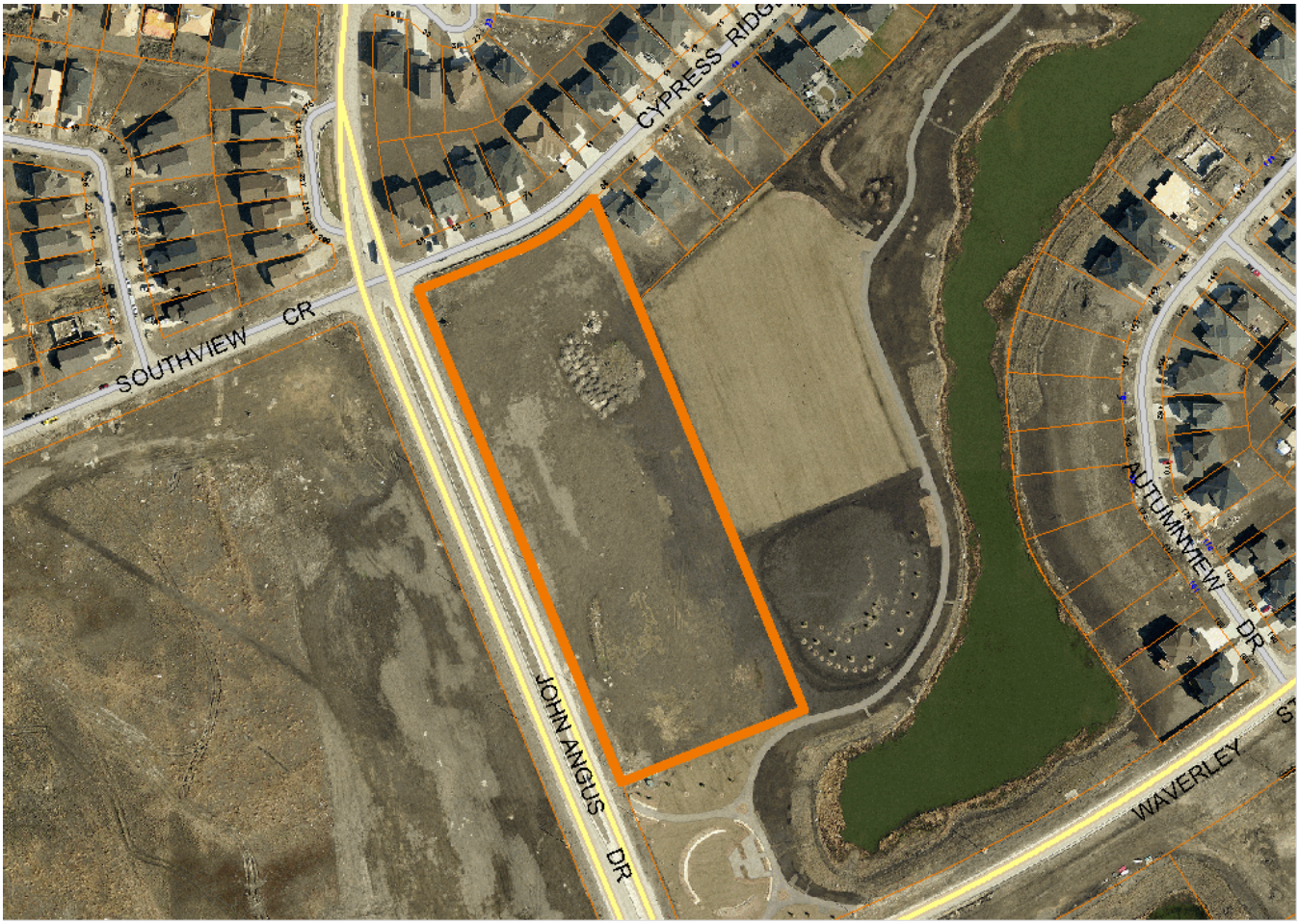


Figure 1: Air photo of the subject property and surrounding area (2012)

SURROUNDING ZONING & USES (See Figure 2)

North: Cypress Ridge (local road) and detached single-family homes zoned R1-M.

South: Park land zoned PR1.

East: Park land zoned PR1.

West: Vacant land zoned C3.

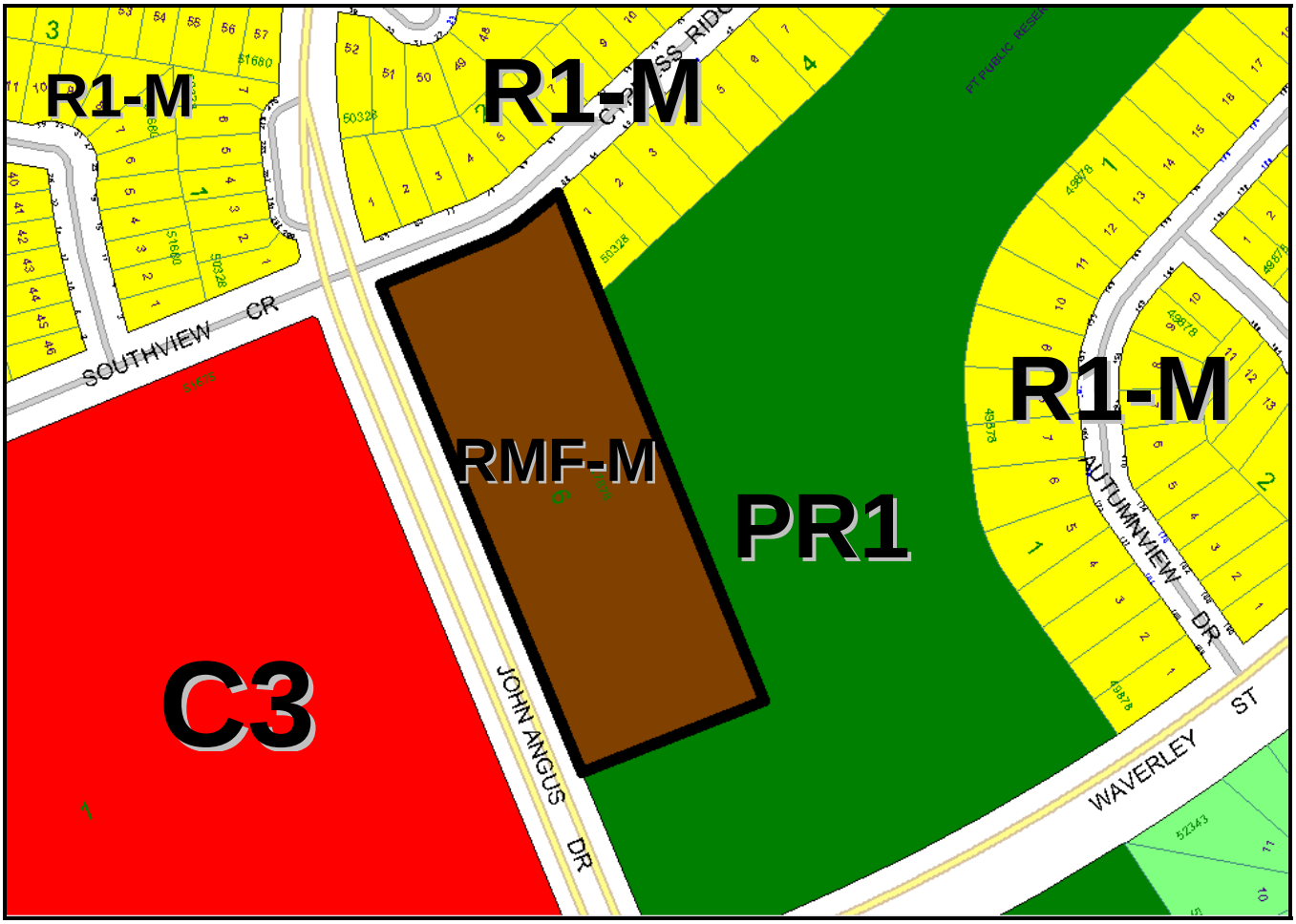


Figure 2: Zoning of the subject property and surrounding area

BACKGROUND

- The subject property is designated as a potential school site under the Waverley West Southeast Neighbourhood Area Structure Plan (By-law 140/2007). Policies for schools within that Plan indicate that a school may not be developed on the designated site if the school division (Pembina Trails School Division) chooses not to pursue the site.
- Under DASZ 22/2007, the subject property was rezoned to RMF-M. The planner's report includes a discussion regarding the fact that the subject site was earmarked for a school in the associated Waverley West Southeast Neighbourhood Area Structure Plan. The report also mentions the Public Service's desire to ensure that there is a 50 foot buffer from the east property line of the site to any residential structure if the land is developed for multi-family purposes.
- The rationale for including the 50 foot setback restriction in the zoning agreement was that it was anticipated that the school lands and the park would essentially fit their respective open space components together in a seamless fashion, like in many other

areas in Winnipeg. If a school were not to be developed on the site, the setback was included to ensure that there was a reasonable separation distance between the park – which will be developed as a soccer field – and the multi-family development. The setback was desired to help reduce noise complaints regarding the park use, which are common throughout the City.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to a 72 unit townhome/bungalow condominium development on the site.
- The primary access to the site would be from John Angus Drive.
- The proposed setback from the east property line is 20 feet.
- A variance is required for two parking stalls in a required front yard along Cypress Ridge (see DAV 13-110517/D.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is within the Areas of Stability – Recent Communities policy area. With regard to this proposal, the key policies guiding the development of Areas of Stability include:
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.
    - Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.
    - In order to meet the full life-cycle of housing needs within the community, promote a mix of housing type and tenure, such as duplexes, low rise apartments, secondary suites, semi-detached homes, townhouses.

ZONING (BY-LAW 200/2006)

"RMF-M" Residential Multi-Family Medium

- The RMF-M zone is intended to accommodate the development of multi-family units in neighbourhoods with medium to high residential densities. The dimensional standards for multi-family structures in the RMF-M zone are: a minimum front yard of 25 feet; a minimum rear yard of 25 feet; a minimum side yard of 8 feet (where the building is more than one storey in height the required interior side yard increases by 2 feet for each storey above the ground floor to a maximum of 20 feet) and, a maximum building height of 60 feet. The minimum lot area is 9,000 square feet and the minimum lot area per dwelling unit is 800 square feet.

LAND USE BY-LAW

Amendment to Zoning Agreement DASZ 22/2007

- Clause 3(a) of the existing zoning agreement on the land includes a minimum setback requirement of 50 feet from the east property line for any residential structure developed for multi-family purposes. The applicant would like to reduce this minimum setback requirement to 20 feet to accommodate a 72 unit townhome/bungalow condominium development on the site.

DAV 13-110517/D

- Parking is not a permitted projection in a required front yard. The applicant would like to have two parking stalls in the required front yard along Cypress Ridge.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The applicant is proposing to reduce the setback required under the zoning agreement from 50 feet to 20 feet from the east property line.
- This setback will effectively act as the rear yard for the development, which will be oriented towards John Angus Drive. However, under the Zoning By-Law the front yard is measured from the north property line (along Cypress Ridge); the side yards are measured from the east and west property lines; and, the rear yard is be measured from the south property line.
- The minimum rear yard setback in all residential zones is 25 feet.
- The neighbouring single-family homes along Cypress Ridge that back onto the park all have rear yard setbacks of at least 45 feet.
- Under DASZ 22/2007, the subject site was rezoned to RM-4 under the previous Zoning By-law 6400/94. The maximum permitted height under that zoning district was 45 feet. In 2008, Zoning By-law 200/2006 replaced 6400/94 and the subject site was re-designated to RMF-M, which allows a maximum height of 60 feet.
- The primary reason for including a 50 foot setback from the east property line was to help reduce the number of complaints (primarily noise) that could occur from the property owners due to the soccer field being developed on the park land to the east. It should also be noted that a toboggan hill will be developed south of the soccer field that will be adjacent to the southern 1/3 of the subject property. The use of this hill in the summer could also generate complaints from property owners.
- The Public Service believes that the request to reduce the setback from the east property line for the proposed development can be reasonable in this instance because the applicant is proposing a bungalow/townhome condominium development on the site. However, the Public Service would like to see a minimum 25 foot setback from the east property line, and add a clause to restrict the maximum height of any building on the land to 35 feet.

- The Public Service is recommending a minimum setback of 25 feet, which is the same rear yard setback required in all residential zones. The recommendation to include a height restriction takes into consideration that the applicant is proposing to significantly reduce the original required setback. Seeing that the applicant is proposing a bungalow/townhome condominium, the restriction on height with the reduced setback should not impact the applicant and should help reduce any potential conflicts with the surrounding land uses. A maximum height of 35 feet is the same height restriction imposed on all R1-zoned land.
- Plan approval is required under the existing zoning agreement. The Public Service is recommending the following design guidelines be used to help ensure compatibility with the site's surroundings. These guidelines should be used when evaluating future development on the subject property:
    - The site layout and building orientation should ensure that the buildings relate appropriately to the John Angus Drive and Cypress Ridge and surrounding developments.
    - The overall design should be made up of a distinctive, quality, architectural character and style that avoids monotonous and featureless building massing and design. Use landscaping, aesthetic characters (such as projections and offsets), change in cladding material, glass, etc. to break up tracts of continuous blank walls.
    - The tallest buildings on the site (i.e. buildings two storeys or greater) should be oriented towards John Angus Drive, with the single-storey buildings closest to the eastern property line bordering the park and single-family home.
    - Universally accessible connections should be linked to sidewalks.
    - Landscaping shall be provided to enhance the overall development in key areas such as the development perimeter, corners, common areas, areas along pathways, and entryways.
    - A solid, 6.5 foot tall fence should be developed along the eastern property line.
    - A vegetative buffer should be developed inside (west of) the fence along the eastern boundary of the site. This buffer should be substantial and include a mix of coniferous and deciduous trees and shrubs in order to help buffer the site from the soccer field and toboggan hill to the east.

RECOMMENDATION

The Urban Planning Division recommends **approval with modifications** for the following reasons:

- The request to reduce the setback from the east property line for the proposed development can be reasonable in this instance because the applicant is proposing a bungalow/townhome condominium development on the site.
- The recommended modifications can help reduce potential conflicts with the surrounding land uses.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # ZAA 4/2013