Minute No. 358
Report – Standing Policy Committee on Property and Development – March 11, 2014

Item No. 10 Rezoning – 1210-1220 Chamberlain Avenue (Point Douglas Ward) File DAZ 233/2013 [c/r ZAA 12/2013]

COUNCIL DECISION:

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

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 233/2013 dated December 17, 2013 to an "RMF-S" Residential Multi-Family (Small) District, subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in Schedule B, the report of the Administrative Coordinating Group dated February 11, 2014, with the following amendment:

        i. Amend Condition 1 by adding the following at the end thereof:

        "In addition, to the $100,000 the Developer is required to contribute to the development of a park, the Developer shall contribute an additional $70,000 to be allocated to the Point Douglas Ward portion of the Lord Selkirk - West Kildonan Community Committee Land Dedication Reserve account, for the unanticipated loss of open space to the community resulting in non-compliant conditions, which represents land value, additional site landscaping and amenities."

2. That final plans for the public park amenities be submitted to the Director of Planning, Property and Development and the Lord Selkirk – West Kildonan Community Committee for approval.

3. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

Report – Standing Policy Committee on Property and Development – March 11, 2014

COUNCIL DECISION (continued):

4. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

5. That the Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward the same to Council for all three (3) readings.

6. That the zoning section of the by-law comes into force when the Servicing Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within twelve (12) months from the date by-law is passed.

7. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

8. 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 – March 11, 2014

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 19, 2014, 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, as amended, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 11, 2014, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee with the following amendments:

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

  "i "Amend Condition 1 by adding the following at the end thereof:

  "In addition, to the $100,000 the Developer is required to contribute to the development of a park, the Developer shall contribute an additional $70,000 to be allocated to the Point Douglas Ward portion of the Lord Selkirk - West Kildonan Community Committee Land Dedication Reserve account, for the unanticipated loss of open space to the community resulting in non-compliant conditions, which represents land value, additional site landscaping and amenities.""

- Add the following new Recommendation 2. and renumber the remaining recommendations accordingly:

Report – Standing Policy Committee on Property and Development – March 11, 2014

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

> "2. That final plans for the public park amenities be submitted to the Director of Planning, Property and Development and the Lord Selkirk – West Kildonan Community Committee for approval."

and forwarded the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On February 18, 2014, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service with the following amendment:

- Amend Condition 1 by adding the following at the end thereof:

  "In addition, the Developer shall pay to the City, Cash on Demand the amount of $250,000 for the unanticipated loss of open space to the community resulting in non-compliant conditions, which represents land value, additional site landscaping and amenities."

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

RE: **Rezoning – 1210-1220 Chamberlain Avenue**
File DAZ 233/2013

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

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

Report date: **February 20, 2014**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 18, 2014, the Lord Selkirk-West Kildonan 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 Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 233/2013 dated December 17, 2013 to an "RMF-S" Residential Multi-Family (Small) District, subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in Schedule B, the report of the Administrative Coordinating Group dated February 11, 2014, ***with the following amendment:***

        i. Amend Condition 1 by adding the following at the end thereof:

        "In addition, the Developer shall pay to the City, Cash on Demand the amount of $250,000 for the unanticipated loss of open space to the community resulting in non-compliant conditions, which represents land value, additional site landscaping and amenities."

2. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward the same to Council for all three (3) readings.

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 reasons for its recommendation:

1. The subject development is a good development and addresses the need for affordable infill homes; however as the project progressed and buildings were developed, things changed to the point where it resulted in an unanticipated loss of a community park on the lands.

2. The dollars resulting from the subject application will be reallocated within the Ward for park purposes close by within in the community.

PUBLIC HEARING SUMMARY

File: DAZ 233/2013

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

Public Hearing: February 18, 2014
Council Building, 510 Main Street

Applicant: MEG Construction Inc. (Chris Snelgrove)

Subject:



Premises Affected: 1210 – 1220 Chamberlain Avenue

Exhibits Filed:

1. Application dated December 16, 2013
2. Notification of Public Hearing dated December 20, 2014
3. Manitoba Status of Titles 2580556/1, 2580638/1 and 2580639/1

4a. Letter of authorization dated November 26, 2013 from Terra Commons Inc. to Chris Snelgrove

4b. Letter of authorization dated December 11, 2013 from Winnipeg Condominium Corporation No. 777 to Chris Snelgrove

5. Surveyor's Building Location Certificate and sketches (2 pages) dated June 10, 2013 and December 3, 2013
6. Caveats 4166963/1 and 4166964/1
7. Report from the Urban Planning Division dated February 11, 2014
8. Inspection Report
9. Audio Recording of representations

REPRESENTATIONS:

In Support:

Andrew Marquess
Dom Rutigliano
Geoff Zywina

In Opposition

Nil

For Information:

Nil

For the City:

Mr. N. Yauk, Planner, Planning, Property and Development Department
Mr. G. Jasper, Land Development Engineer, Planning, Property and Development Department

Exhibit "7" referred to in File DAZ 233/2013

ADMINISTRATIVE REPORT

Title: DAZ 233/2013 – 1210 Chamberlain Ave

Issue: For consideration at the public hearing for a Rezoning, DAZ 233/2013 - 1210 Chamberlain Ave.

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
B. Smith	B. Thorgrimson	n/a	

RECOMMENDATIONS

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 233/2013 dated December 17, 2013 to an "RMF-S" Residential Multi-Family (Small) District, subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in Schedule B, the report of the Administrative Coordinating Group dated February 11, 2014.

2. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.
3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.
4. That the Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward the same to Council for all three (3) readings.
5. That the zoning section of the by-law comes into force when the Servicing Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within twelve (12) months from the date by-law is passed.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.
7. 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

The applicant wishes to rezone the subject property to an "RMF-S" Residential Multi-Family District to accommodate a building that has already been constructed. The site's current zoning "PR1" Parks and Recreation District does not accommodate residential development whatsoever.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning Division are concurred in, the property will be rezoned to an "RMF-S" Residential Multi-Family District.

HISTORY

The subject site was rezoned to a "PR1" Parks and Recreation District under DASZ 33/07 to accommodate a privately owned and publicly accessible community park. This rezoning was part of a larger subdivision and rezoning application where the balance of the lands were rezoned to "RM2" (now "RMF-S") to enable the renovation of existing units and the construction of new units for a total of 192 multi-family dwelling units. The establishment of the privately owned park space was in exchange for an adjacent city owned park space made available to the developer, with the understanding as negotiated through the rezoning process, that the developer would be responsible for developing the "PR1" lands as community park space for public use. Since the approval of DASZ 33/07 two buildings were constructed without the issuance of building permits and with portions resting on the lands zoned "PR1" such that each building extends approximately 45 feet into the lands zoned "PR1". Since the "PR1" zoning district does not accommodate residential development of any kind, the applicant has applied to rezone the subject property to an "RMF-S" Zoning District to enable the buildings to remain.

CONSULTATION

In preparing this Report there was consultation with:

The Administrative Coordinating Group of the City of Winnipeg.

SUBMITTED BY

Department	*Planning, Property and Development*
Division	*Urban Planning*
Prepared by	Noah Yauk
Date:	February 11, 2014
File No.	DAZ 233/13

Attachments:

- APPENDIX 'A': PLANNER'S REPORT
- SCHEDULE "A" FOR FILE NO. DAZ 233/2013, LORD SELKIRK / WEST KILDONAN COMMUNITY COMMITTEE, DATED DECEMBER 17, 2013
- REPORT OF THE ADMINISTRATIVE CO-ORDINATING GROUP – February 11, 2014
- Appendix B: Plans As Approved for the Development of the Community Park.

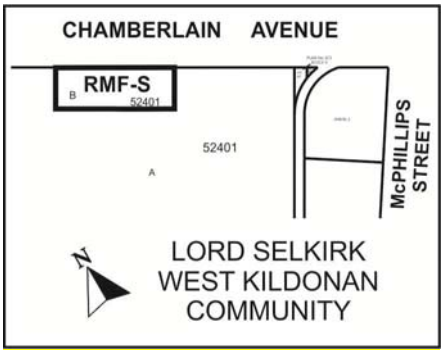
APPENDIX 'A': PLANNER'S REPORT

DATE: February 11, 2014
FILE: DAZ 233/2013
RELATED FILES: ZAA 12/2013
COMMUNITY: Lord Selkirk / West Kildonan
NEIGHBOURHOOD #: Mynarski

SUBJECT: To rezone the subject land from "PR1" Parks and Recreation District to an "RMF-S" Residential Multi-Family District.

LOCATION: 1210 Chamberlain Ave

LEGAL DESCRIPTION: Parcel B, Plan 52401, Common Element 52469



APPLICANT: MEG Construction (Chris Snelgrove)
265 Sutherland Avenue
R2W 2N5 WPG, MB

Owner: Winnipeg Condominium Corporation No. 777
Terra Commons Inc.

RECOMMENDATION: Approval

REPORT SUMMARY

- The Urban Planning Division recommends the application be approved because the lands are no longer adequate for the development of a community park because the lands have been developed with buildings.
- As per the conditions of approval associated with the DASZ 33/07 the developer will lose funds ($100, 000.00) provided to the city in the form of a letter of credit, which was to be refunded upon the installation of the community park. A conditional of approval of the Administrative Coordinating Group Report, attached hereto as Schedule B reallocates those funds for park purposes elsewhere in the community.

SITE DESCRIPTION

Land Use and Zoning

The subject site is zoned "PR1" Parks and Recreation District and is located on Chamberlain Avenue between McPhillips Street and Fife Street in the Mynarski Neighbourhood of the Point Douglas Ward. Figure 1, below, shows the boundary of the subject property and Figure 2 shows the larger planned area boundary as rezoned under DASZ 33/07.

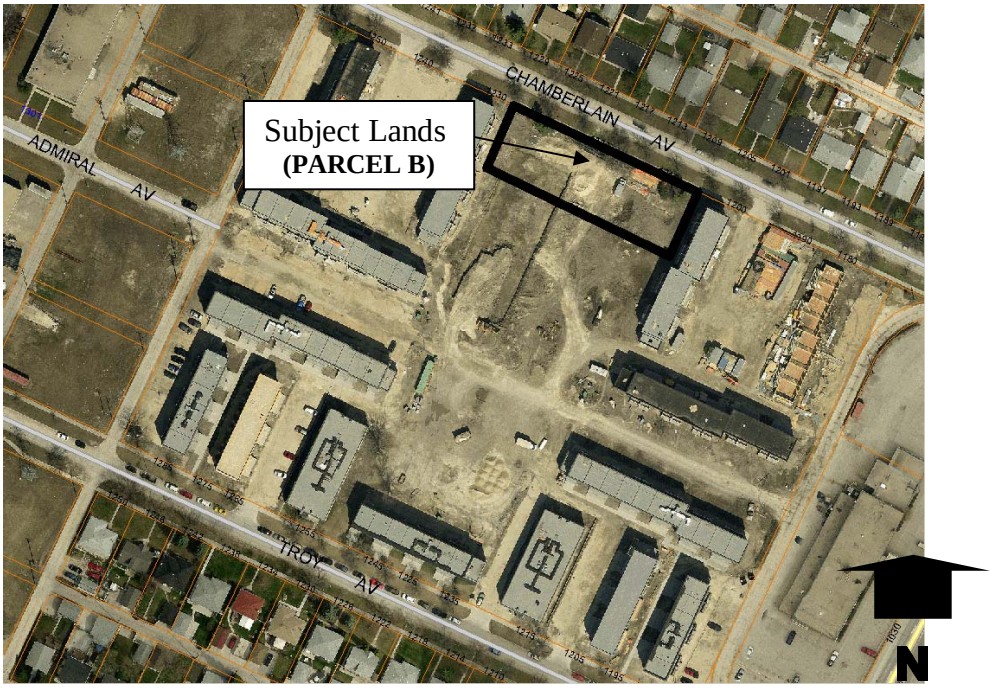


Figure 1: Approximate Boundary of the Subject Site (Aerial Flown 2012)

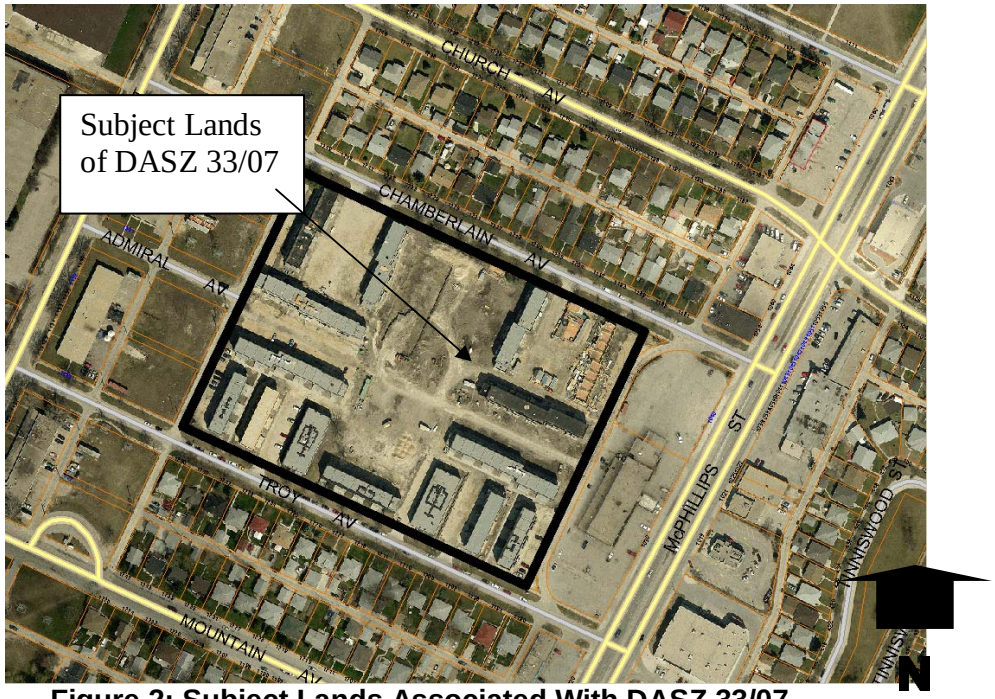


Figure 2: Subject Lands Associated With DASZ 33/07

SURROUNDING LAND USES & ZONING

North: Single-Family Residences zoned “R1-M” Residential Single-Family District.
South: Multi-family dwellings zoned “RMF-S” Residential Multi-Family District.
East: Multi-family dwellings zoned “RMF-S” Residential Multi-Family District.
West: Multi-family dwellings zoned “RMF-S” Residential Multi-Family District.

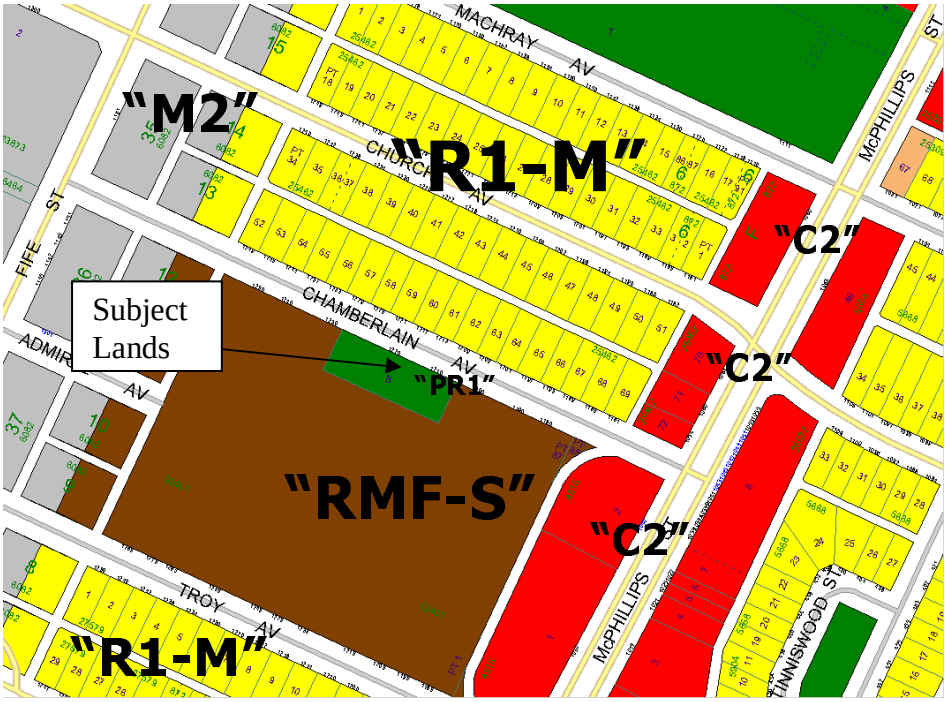


Figure 3: Current Zoning of Subject Site and Surrounding Lands

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- As part of a larger multi-family development, the property developer has constructed two multi-family buildings partly on lands that are zoned "PR1" Parks and Recreation District. As per DASZ 33/07 the subject lands were rezoned to "PR1" Parks and Recreation District to accommodate privately owned, but publicly accessible community park. Figure 4 below shows approximately where the buildings encroach into the lands zoned "PR1".

- Under the current zoning of the subject site "PR1" Parks and Recreation District, residential development is not a permitted use. The remainder of lands in the planned area, where the buildings were supposed to go, are zoned "RMF-S" Residential Multi-Family and therefore accommodate the 192 dwelling units proposed under DASZ 33/07. Approximately half of these units are in the form of new construction and other half are existing, renovated units

- Prior to the construction of the buildings, and as per the conditions of the zoning agreement, it is noted that plans for the development of the lands including the community park were submitted to and subsequently approved by the Public Service on Aug. 12, 2012. The approved plans were consistent with the size and dimensions of the subject lands zoned "PR" as approved through DASZ 33/07 and By-Law No. 34/2008 (See Appendix B for details of the community park submitted by the developer for approval).

- Despite the "PR1" zoning of the subject lands and the existence of an approved, detailed, site plan for a community park, two buildings have been erected in such a

manner that the each project into the subject lands (community park) by approximately 45 feet. Each of these buildings contains 4 additional units than originally contemplated.

- The introduction of the buildings on the lands intended for the community park space render the proposed community park impossible to construct as per the approved plans.
- For the buildings to remain, the lands must be rezoned because the "PR1" Parks and recreation Zoning District does not accommodate residential development. The remainder of the buildings rest on lands zoned "RMF-S" and do accommodate residential multi-family development.

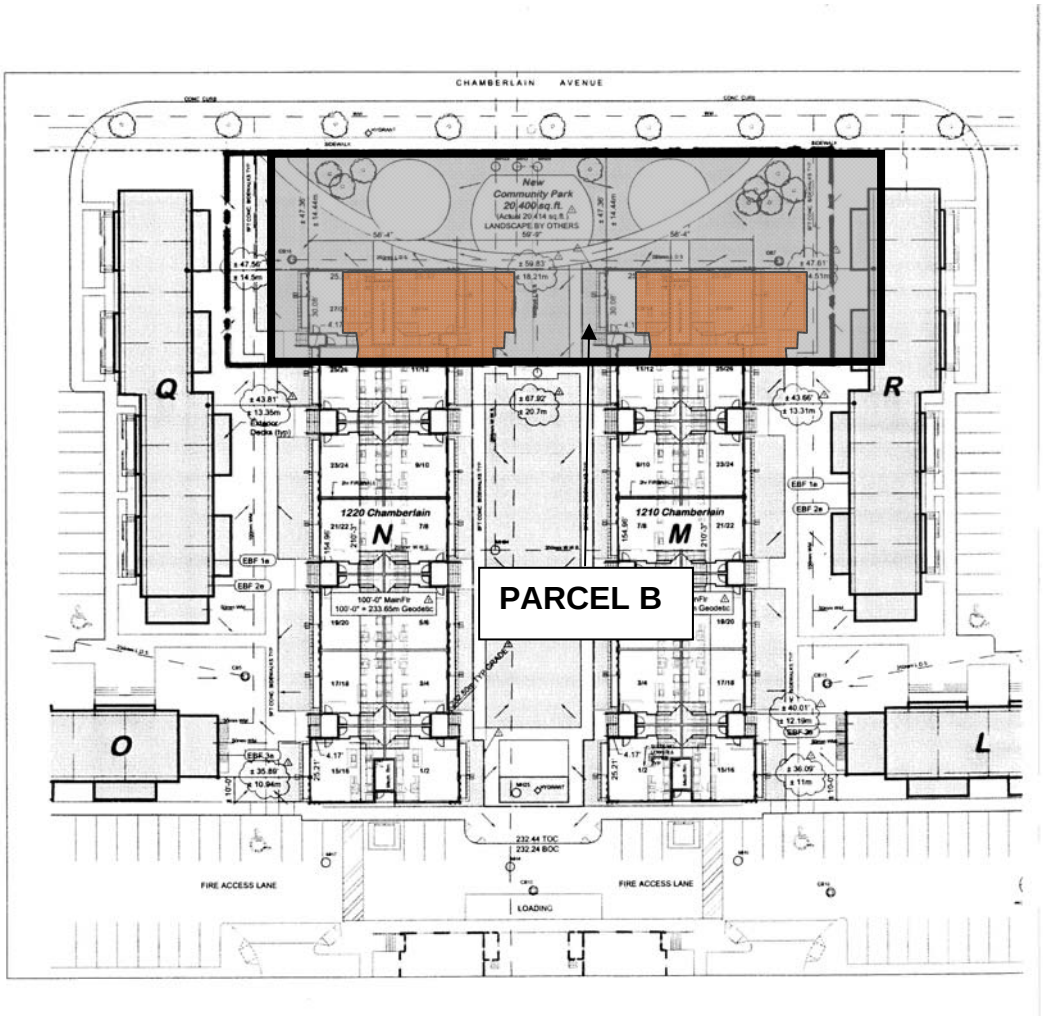


Figure 4: Area of Buildings Encroaching on Lands Zoned "PR1"

How the Community Park Came to Be

- Prior to submission of DASZ 33/07, the city of Winnipeg owned a parcel of land referred to as the *Troy Tot Lot* which was 29, 360 sq ft in size. Given the land owner's development intentions for a large redevelopment project so close to the existing tot lot, an opportunity was seen to redevelop the existing park in a more strategic location.

According to the Parks Department, the park was not in great shape. As negotiated through the development approval process, the city agreed to give up the 29, 360 sq ft of existing park space by declaring the lands surplus and selling them to the developer in exchange for the promise of a new community park on the developer's lands (Parcel B), the size of which was 20, 400 sq ft. Also negotiated in the development was the closing of a public lane running east/west through the planned area of DASZ 33/07 which was sold to the developer as well. Figure 5 (below) shows the location of the former park, proposed park and the former public lane. From a numbers perspective the developer gained approximately 10,000 sq ft of developable land area from the change in size of the park alone. However, the developer may argue that the lands (Troy Tot Lot) were purchased from the city. Typically, in situations where community park space is provided, the park lands will be owned by the City and zoned "PR" Parks and Recreation District. This particular development is unique, because the lands that were to be developed as community park space were negotiated to remain privately owned with agreements in place to ensure that the developer would be responsible for the installation of the park and its future maintenance. Given the events that have unfolded in this case, it is strongly encouraged that future efforts to create or alter existing public space do not result in those lands being privately owned.



Figure 5: Changes to the Community Park Space as per DASZ 33/07

- At the December 19th, 2007 Council meeting the rezoning application was approved with one of the conditions being the following:

That prior to the release of mylars, the applicant shall provide a letter of credit in the amount of $100,000. This letter of credit will be refunded upon development of the park area and installation of playground equipment to the satisfaction of the Director of Planning, Property, and Development

- As per the above condition, the City of Winnipeg is not in a position to give back the letter of credit to the developer. As per the conditions of the attached ACG Report, those funds would be reallocated elsewhere in the community for park purposes.

- Whether the $100,000 is adequate enough or not to offset the lost community park is questionable. However, DASZ 33/07 was specific in the value of the posted letter of credit.

REASONS FOR RECOMMENDATIONS

In the context of Section 247(3), the Urban Planning Division recommends **approval** for the following reasons:

(a) is consistent with Plan Winnipeg and any applicable secondary plan;
(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
(c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
(d) is compatible with the area in which the property to be affected is situated.

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

PPD File # DAZ 233/2013
Schedule “A” for File No. DAZ 233/2013, Lord Selkirk / West Kildonan Community Committee, dated Dec. 17, 2013

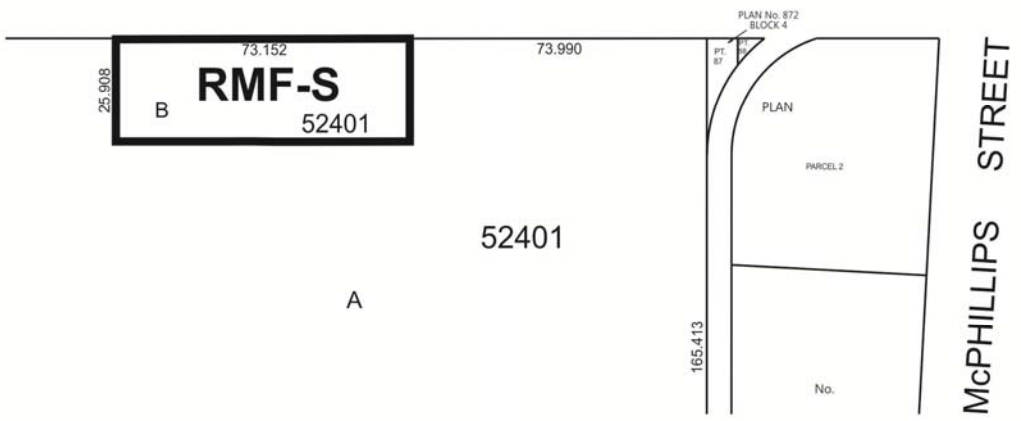
By-Law No. _____

File No. **DAZ 233/13 & ZAA 12/13**

Atlas Sheet No. **V23**
LORD SELKIRK
WEST KILDONAN
COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located on 1210-1220 Chamberlain Avenue from a "PR1" PARKS AND RECREATION 1 DISTRICT to an "RMF-S" RESIDENTIAL MULTI-FAMILY (Small) DISTRICT to allow for the maintenance of a multiple family dwelling and to amend the Zoning Agreement DASZ 33/2007 affecting the land shown outlined by removing Clauses 3, 4, 5, 6 and 7 including all of their subclauses relating to Parcel B as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

SCHEDULE B

REPORT OF THE ADMINISTRATIVE CO-ORDINATING GROUP – February 10, 2014

RE: PROPOSED REZONING OF LAND LOCATED AT McPHILLIPS COMMON (1210-1220 CAMBERLAIN AVENUE – DAZ 233/2013

It is recommended that the approval of DAZ 233/2013, if granted, be subject to the applicant entering into a Servicing Agreement addressing the following conditions;

1) In Lieu of the Developer being unable to conclude his park dedication requirements under file DASZ 33/2007, it is recommended that the $100,000.00 security provided thereto be re-purposed through the land dedication process for use in the community.

2) The Developer shall pay to the City, prior to the enactment of the zoning bylaw, $1,650.00 plus GST to defray the City's administration and related costs associated with the preparation and implementation of the Servicing Agreement.

THIS REPORT SUBMITTED BY:

Administrative Co-ordinating Group
File No. DASZ 51/2013
February 11, 2014

"Original Signed by G. Jasper, P.Eng."
G.V. Jasper, P. Eng.
Land Development Branch

"Original signed by K. McKim M.L.Arch" on behalf of

D. Beaton M.L.Arch
Parks and Urban Design, Property and Planning

Appendix B: Plans As Approved for the Development of the Community Park

