Agenda – Council - May 27, 2014

Report – Executive Policy Committee – May 7, 2014

Item No. 3 Zoning Agreement Amendment – East side of Dr. Jose Rizal Way between Jefferson Avenue and Water Ridge Path (Old Kildonan Ward/Point Douglas Ward) File ZAA 9/2013

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 7, 2014, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the following to Council:

1. That Zoning Agreement under File DASZ 15/2012, (By-law No. 59/13), be amended as follows:

   A. That Clause 7 be deleted.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 15/2012, (By-law No. 59/13) 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 – Executive Policy Committee – May 7, 2014

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 7, 2014, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 22, 2014, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Zoning Agreement Amendment - East side of Dr. Jose Rizal Way between Jefferson Avenue and Water Ridge Path**
File ZAA 9/2013

For submission to: **Executive Policy Committee**

Prepared by: **Andrew Poitras, Senior Committee Clerk**
Lord Selkirk-West Kildonan Community Committee

Report date: **April 22, 2014**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 22, 2014, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That Zoning Agreement under File DASZ 15/2012, (By-law No. 59/13), be amended as follows:

   A. That Clause 7 be deleted.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 15/2012, (By-law No. 59/13) 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.

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reason(s) for its recommendation:

1. The Lord Selkirk West Kildonan Community Committee agreed with the administrative comments contained in the report of the Urban Planning Division dated April 11, 2014.

PUBLIC HEARING SUMMARY

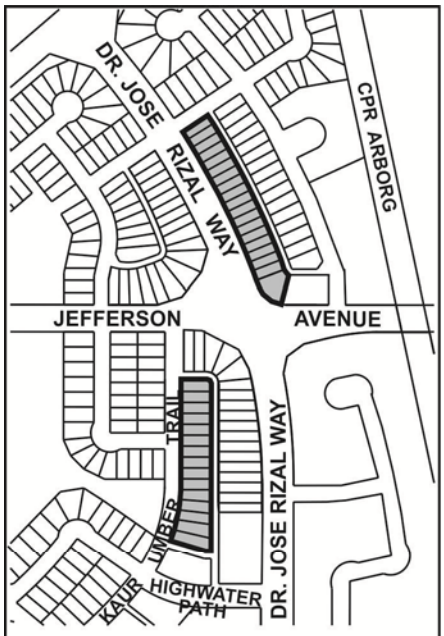
File: ZAA 9/2013

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

Public Hearing: April 22, 2014
Council Building, 510 Main Street

Applicant: Lombard North Group

Subject:



Premises Affected:	east side of Dr. Jose Rizal Way between Jefferson Avenue and Water Ridge Path

Exhibits Filed:

1. Application dated November 19, 2014
2. Notification of Public Hearing dated February 24, 2014
3. Manitoba Status of Titles 2575453/1 and 2315268/1
4a. Letter of authorization dated April 17, 2014 from Terrascape Developments Inc. to Lombard North Group
4b. Letter of authorization dated April 17, 2014 from SGS Properties Ltd. to Lombard North Group
5. Zoning Agreement for File DASZ 15/2012
6. Plans (2 pages)
7. Report from the Urban Planning Division dated April 11, 2014
8. Inspection Report
9. Aerial photographs of subject area submitted by David Palubeski at the public hearing, in support of the application
10. Audio Recording of representations

REPRESENTATIONS:

In Support:

David Palubeski

In Opposition

Nil

For Information:

Nil

For the City:

Mr. N. Yauk, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 9/2013

ADMINISTRATIVE REPORT

Title: ZAA 9/13 – Dr Jose Rizal Way

Issue: For consideration at the Public Hearing to amend the Zoning Agreement to:

- Delete clause number 7 which requires an 18 foot rear yard setback to accessory structures

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 Zoning Agreement under File DASZ 15/2012, (By-law No. 59/13), be amended as follows:

   A. That Clause 7 be deleted

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 15/2012, (By-law No. 59/13) 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

- The applicant wishes to amend the zoning agreement to allow a reduced rear yard for accessory structures.
- The property has a Zoning Agreement caveated on the Certificate of Title by the City of Winnipeg, of which one of the clauses requires a minimum 18 foot rear yard setback to accessory structures.

- The applicant had originally requested the 18 foot setback be added to the zoning agreement, but the home builders are requesting this be reduced to allow 8 feet on select lots to increase the functionality of the back yard.
- The Public Service recommends approval of deleting this clause.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Planning and Land Use Division are concurred in, the subject clause will be deleted.

HISTORY

DASZ 15/12

- Council approved the application DASZ 15/12 to rezone the subject property to an *'R2' Residential Two-Family* District" to allow the development of two family homes.
- Council also approved a subsequent application to rezone the subject property to an *'R1-M' Residential Single-Family* District" to allow the development of single- family homes.
- The original rezoning (DASZ 15/12) includes a Zoning Agreement. One clause of the zoning agreement requires select properties to have a minimum rear yard set back of 18 feet to an accessory structure.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Date:	April 11, 2014
File No.	ZAA 9/13

APPENDIX 'A'

DATE: April 11, 2014

FILE: **ZAA 9/13**
RELATED FILES: DASZ 15/12; DASZ 27/13; DASZ 28/13

COMMUNITY: Lord Selkirk / West Kildonan

NEIGHBOURHOOD #: Waterford Green

SUBJECT: For consideration at the Public Hearing to delete a clause in the Zoning Agreement related to a rear yard setback to an accessory structure.

LOCATION: Dr Jose Rizal Way

LEGAL DESCRIPTION: (prior to registration of DASZ 15/12)
Lot 2 Plan 29233 WLTO
IN FRAC S ½ 36-11-2 EPM

FIRSTLY:
ALL THAT PORTION OF THE NW ¼ OF SECTION 25-11-2 EPM WHICH LIES SOUTHEAST OF THE SOUTHEASTERN LIMIT OF THE RIGHT OF WAY OF THE CANADIAN PACIFIC RAILWAY PLAN 2444 WLTO EXC: PLANS 13338, 13740, 19421 AND 21525 WLTO

SECONDLY:
PARCELS A AND C PLAN 13338 WLTO
IN N/W ¼ 25-11-2 EPM

APPLICANT: Lombard North Group / Richard Mahe
505-93 Lombard Avenue
Wpg., MB R3B 3B1

OWNER: SGS Properties / Terrascape Development

RECOMMENDATION: Approval

REPORT SUMMARY

- The Urban Planning Division recommends the application be approved.
- The increased rear yard set back was included in the zoning agreement at the applicant's request.
- The applicant is asking that the clause be deleted as it is too onerous for the development of single-family lots.
- The rear yard setbacks to accessory structures will meet the requirements of the zoning by-law.

SITE DESCRIPTION

Land Use and Zoning

- The subject lands are located on the east side of Kaur Umber Trail between Jefferson Avenue, and on the west side of Dr Jose Rizal Way, the first block north of Jefferson Ave.
- The lands are located within the Waterford Green Neighbourhood (Precinct C) and are zoned "R1-M" Residential Single-Family District (as per DASZ 27/13 and DASZ 28/13).
- The lands are zoned for residential uses that are as of yet undeveloped.

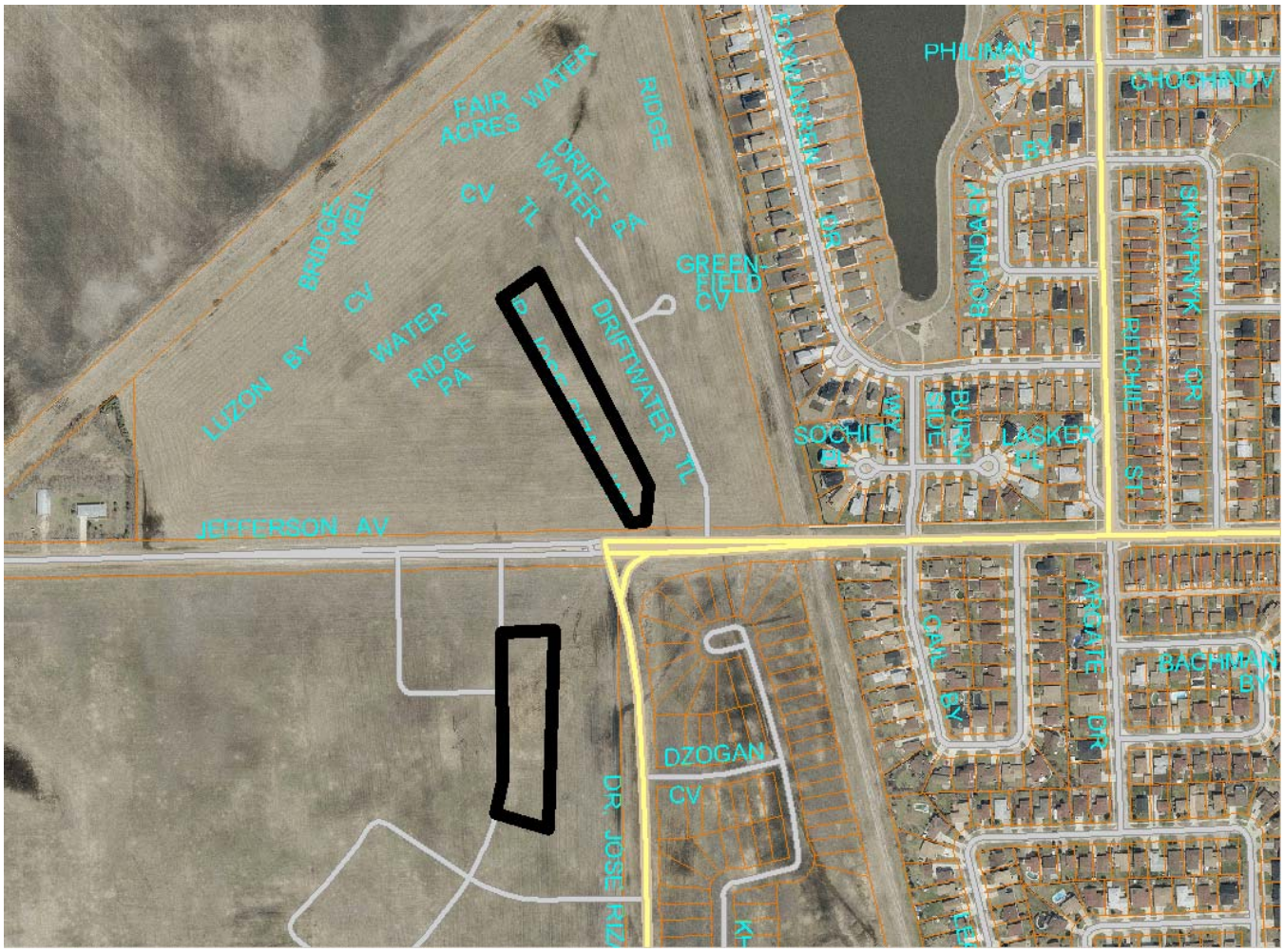


Figure 1: Approximate location of Subject Lands

DESCRIPTION OF PROPOSED DEVELOPMENT

- The applicant wishes to amend the zoning agreement to allow a reduced rear yard for accessory structures.
- The property has a Zoning Agreement caveated on the Certificate of Title by the City of Winnipeg, of which one of the clauses requires a minimum 18 foot rear yard setback to accessory structures.
- The applicant had originally requested the 18 foot setback be added to the zoning agreement, but the home builders are requesting this be reduced to 8 feet on select lots to increase the functionality of the back yard.
- The Public Service recommends approval of the proposed amendment.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is within the New Communities Policy Area. As per the policies of Complete Communities a Precinct Plan has been adopted by Council.

ZONING AGREEMENT

- The zoning agreement requires a special rear yard setback to accessory structures of 18 feet for select properties.
- These properties are located on Dr Jose Rizal Way or share the lane with the properties that front Dr Jose Rizal Way
- The applicant requested this special yard set back be added to the zoning agreement. The Administration granted this request as the special yard set back was to accommodate additional parking should on street parking on Dr Jose Rizal Way become restricted at some point in the future (when Dr Jose Rizal Way connects to Chief Peguis Trail).
- While the special yard setback tries to address a potential situation in the future, the requirement is way in excess of the zoning by-law requirement of 2 feet. The developer contends that the lots will provide an 8 foot setback to garages. The developer also notes that any development must be consistent with their own internal guidelines.
- It is also noted that the properties were originally zoned “R2” Residential Two-Family and have since been zoned to “R1-M” Residential Single-Family. This rezoning lessens the intensity of development and means the properties should have more flexibility to accommodate parking on site.
- The proposed change to the zoning agreement is not expected to cause any parking issues.

RECOMMENDATION

The Urban Planning Division recommends the application be approved because:

- The proposed setbacks will not impact neighbouring properties.
- The proposed setbacks will meet or exceed the by-law requirements.

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

Report Prepared By: Noah Yauk
PPD File # ZAA 9/13