Minute No. 740
Report – Executive Policy Committee – September 17, 2014

Item No. 4 **Zoning Agreement Amendment –**
Brady Road and the Perimeter Highway
(St. Norbert Ward)
File ZAA 10/2014

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the Zoning Agreement under File DASZ 33/2012 (By-law 68/2013) be amended as follows:

   A. That, the following clauses be added to the Zoning Agreement:

      i. The developer shall, at no expense to the City and to the satisfaction of the Director of Public Works, construct or install a berm and fencing on all lots in the planned area which abut PTH 100 (the Perimeter Highway).

      ii. The berm and fencing must be constructed or installed in accordance with all applicable laws, statutes, regulations and by-laws [including without limitation any licences and permits required and issued under The Highways Protection Act (Manitoba)], must be parallel to PTH 100, and must be at a location or locations and at a height or heights that, in the reasonable opinion of the Director of Public Works, will prevent the flow of vehicular traffic (whether motorized or non-motorized) between the planned area and PTH 100 and will deter the flow of pedestrian traffic between the planned area and PTH 100.

      iii. The owners of the lots must maintain and/or repair and/or replace the berm and fencing as originally constructed or installed, to the satisfaction of the Director of Public Works.

      iv. No development is permitted on the portion of the planned area that is located within 500 metres of PTH 100 until the berm and fence referred to above have been constructed or installed to the satisfaction of the Director of Public Works.

Report – Executive Policy Committee – September 17, 2014

COUNCIL DECISION (continued):

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 33/2012 (By-law No. 68/2013) 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.

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DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 17, 2014, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 8, 2014, the Riel 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 – Brady Road and the PerimeterHighway**
File ZAA 10/2014

For submission to: **Executive Policy Committee**

Prepared by: **Rochelle Viray, Committee Clerk**
Riel Community Committee

Report date: **September 9, 2014**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 8, 2014, the Riel 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 the Zoning Agreement under File DASZ 33/2012 (By-law 68/2013) be amended as follows:

    A. That, the following clauses be added to the Zoning Agreement:

        i. The developer shall, at no expense to the City and to the satisfaction of the Director of Public Works, construct or install a berm and fencing on all lots in the planned area which abut PTH 100 (the Perimeter Highway).

        ii. The berm and fencing must be constructed or installed in accordance with all applicable laws, statutes, regulations and by-laws [including without limitation any licences and permits required and issued under The Highways Protection Act (Manitoba)], must be parallel to PTH 100, and must be at a location or locations and at a height or heights that, in the reasonable opinion of the Director of Public Works, will prevent the flow of vehicular traffic (whether motorized or non-motorized) between the planned area and PTH 100 and will deter the flow of pedestrian traffic between the planned area and PTH 100.

        iii. The owners of the lots must maintain and/or repair and/or replace the berm and fencing as originally constructed or installed, to the satisfaction of the Director of Public Works.

        iv. No development is permitted on the portion of the planned area that is located within 500 metres of PTH 100 until the berm and fence referred to

above have been constructed or installed to the satisfaction of the Director of Public Works.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 33/2012 (By-law No. 68/2013) 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 Riel Community Committee provided the following supporting reason for its recommendation:

1. It is taking care of some technical pieces dealing with the Perimeter Highway.

PUBLIC HEARING SUMMARY

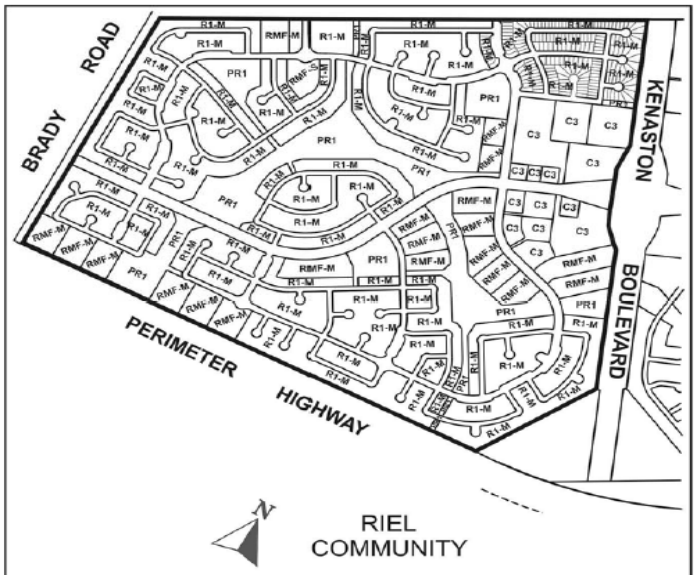
File: ZAA 10/2014

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

Public Hearing: September 8, 2014
Council Building, 510 Main Street

Applicant: Ladco Company Ltd. (Mike Carruthers)

Subject:



APPLICANT : LADCO COMPANY LTD.
FILE : ZAA 10/14
PROPOSAL : To amend the Zoning Agreement DASZ 33/12, By-law 68/2013 affecting the land shown outlined above to add a condition requiring the construction of a berm and fence parallel to PTH 100 within the subdivision. **For information, phone Mr. R. Kostiuk, Planner, at 204-986-7367.**
DEMANDEUR : LADCO COMPANY LTD.
N° DE RÉFÉRENCE : MCZ 10/14
PROJET : Modification de la convention de zonage (DALZ 33/2012, règlement municipal no 68/2013) touchant le bien-fonds indiqué ci-dessus en vue d'ajouter une condition exigeant la construction d'une berme et d'une clôture parallèles à la RPGC 100 à l'intérieur des limites du lotissement. **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 204-986-7367.**

Premises Affected:	Land bounded by Brady Road to the West and Perimeter Highway to the south
Exhibits Filed:	1. Application dated June 16, 2014 2. Notification of Public Hearing dated July 24, 2014 3. Manitoba Status of Titles 2517771/1, 2517781/1, 2517785/1, 2517795/1, 2517839/1 and 2524667/1 4. Surveyor's Building Location Certificate and sketch dated November 8, 2012 5. Report from the Urban Planning Division dated August 28, 2014 6. Inspection Report

REPRESENTATIONS:

In Support:

Michael Carruthers
Tyler Smith

In Opposition

Nil

For Information:

Nil

For the City:

Ms. D. Beaton, Park Strategic Planner, Planning, Property and Development Department
Mr. B. Buyachok, Real Property Officer, Planning, Property and Development Department
Mr. L. Escobar, Manager of Transportation, Public Works Department
Mr. G. Jasper, Land Development Engineer, Planning, Property and Development Department
Mr. R. Kostiuk, Planner, Planning, Property and Development Department

Exhibit "5" referred to in File ZAA 10/2014

ADMINISTRATIVE REPORT

Title: ZAA 10/2014 – Brady Road and the Perimeter Highway Public Hearing

Issue: An application for consideration at the Public Hearing to add a condition to the zoning agreement for DASZ 33/2012 requiring the developer to construct a berm and fence parallel to the Perimeter Highway (PTH 100) within the subdivision.

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 33/2012 (By-law 68/2013) be amended as follows:

   A. That, the following clauses be added to the Zoning Agreement:

      (i) The developer shall, at no expense to the City and to the satisfaction of the Director of Public Works, construct or install a berm and fencing on all lots in the planned area which abut PTH 100 (the Perimeter Highway).

      (ii) The berm and fencing must be constructed or installed in accordance with all applicable laws, statutes, regulations and by-laws [including without limitation any licences and permits required and issued under The Highways Protection Act (Manitoba)], must be parallel to PTH 100, and must be at a location or locations and at a height or heights that, in the reasonable opinion of the Director of Public Works, will prevent the flow of vehicular traffic (whether motorized or non-

motorized) between the planned area and PTH 100 and will deter the flow of pedestrian traffic between the planned area and PTH 100.

(iii) The owners of the lots must maintain and/or repair and/or replace the berm and fencing as originally constructed or installed, to the satisfaction of the Director of Public Works.

(iv) No development is permitted on the portion of the planned area that is located within 500 metres of PTH 100 until the berm and fence referred to above have been constructed or installed to the satisfaction of the Director of Public Works.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 33/2012 (By-law No. 68/2013) 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 is proposing to add clauses to the zoning agreement for DASZ 33/2012 requiring the construction of a berm and fence parallel to the Perimeter Highway (PTH 100) on lots that abut PTH 100.
- Zoning agreement amendments require 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, clauses will be added to the zoning agreement that will require the construction of a berm and fence parallel to PTH 100 on lots that but PTH 100.

HISTORY

DASZ 33/2012 (By-law 68/2013)

- Under DASZ 33/2012 (By-law 68/2013), over 600 acres of land in the Waverley West Southwest Neighbourhood was rezoned from "A" Agricultural to "R1-M" Residential Single-Family Medium; "RMF-S" Residential Multi-Family Small; "RMF-M" Residential Multi-Family Medium; "C3" Commercial Corridor; and, "PR1" Parks and Recreation 1 (Neighbourhood). By-law 68/2013 regarding the subdivision and rezoning was passed by Council on June 26, 2013.
- A zoning agreement was included as a condition of approval for DASZ 33/2012. Requirements of that zoning agreement were as follows:

  i) That, for the development of any building, and/or accessory parking area and/or signage within the lands zoned "RMF-S" or "RMF-M" Residential Multi-Family, or "C3" Commercial, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the Riel Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

  ii) The Developer shall, at no expense to the City, construct within the rear yards of all single and two-family lots abutting Waverley Street, Kenaston Boulevard and the Perimeter Highway, a uniform fence 2.0m in height, to the satisfaction of the Director of Public Works. Future owners of the individual building lots along this fencing shall be responsible for maintaining this fencing to the satisfaction of the Director of Public Works;

  iii) That, where single-family or two-family residential lots back onto Waverley Street, the said lots shall be established with minimum rear yards of 15.24 metres;

  iv) That, the Developer shall ensure that single-family and two-family residential lots which back onto Kenaston Boulevard or the Perimeter Highway are of sufficient depth to provide a minimum rear yard to achieve the City's Motor Vehicle Noise Policies and Guidelines sound-level limit of 65dBA in the typical outdoor recreation area of those lots;

  v) That, the Developer shall, at no expense to the City, erect uniform continuous fencing for properties backing onto park space, or where trails or play equipment is anticipated to be within 10 feet of residential property line to the satisfaction of the Director of Public Works and the Director of Planning, Property and Development. Said fence shall be located within private property and future owners of the individual building lots along this fencing shall be responsible for maintaining this fencing to the satisfaction of the Director of Public Works and the Director of Planning, Property and Development;

vi) That, the Developer and all successors in title to the seven (7) "C3" Commercial-zoned lots located at the northwest corner of the Waverley Street and Kenaston Boulevard intersection in the subdivision shall enter into, and register and maintain in perpetuity by way of caveat or master or declaratory easement against the titles to the lots, private cross-access agreements with the owners of the other lots so as to ensure access to every lot at all times, via streets or internal roads, by vehicles, including but not limited to City emergency service vehicles and transit buses. The Developer and owners must submit the agreements or easements to the City Solicitor for approval prior to execution.

vii) That, the Developer and all successors in title to the seven (7) "C3" Commercial-zoned lots located at the southwest corner of the Waverley Street and Kenaston Boulevard intersection in the subdivision shall enter into, and register and maintain in perpetuity by way of caveat or master or declaratory easement against the titles to the lots, private cross-access agreements with the owners of the other lots so as to ensure access to every lot at all times, via streets or internal roads, by vehicles, including but not limited to City emergency service vehicles and transit buses. The Developer and owners must submit the agreements or easements to the City Solicitor for approval prior to execution.

viii) That the address number of every building on the "C3" Commercial-zoned properties (and the name of the building, if applicable) shall be physically attached to the building or otherwise posted on the subject property lot on which the building is located, so as to be clearly visible from the street or internal road on which the building is located.

Council Minute No. 587, June 25, 2014 - Approve Acquisition and Transfer of Part of Drain Plan No. 6788 WLTO Per Council Approved DASZ 33/2012

- On June 25, 2014, upon recommendation of the Winnipeg Public Service, Council approved the following with respect to Drain Plan No. 6788 (under Province of MB jurisdiction), which runs through DASZ 33/2012:

    1. That the Chief Administrative Officer be authorized to negotiate the acquisition and transfer of part of Drain Plan No. 6788 WLTO (DP 6788), shown hatched on attached Misc. Plan No. 14613/1, from the Province of Manitoba to the City of Winnipeg for the price of $1.00.

    2. That part of DP 6788, shown hatched on attached Misc. Plan No. 14613/1, be declared surplus to the City's needs.

    3. That part of DP 6788, shown hatched on attached Misc. Plan No. 14613/1, be transferred to Ladco Company Limited to be incorporated within DASZ 33/2012 - Waverley West – Southwest Neighbourhood, (Plan Area "D") for the price of $1.00.

    4. That Ladco Company Limited pays all administration costs incurred by the City in acquiring part of DP 6788, shown hatched on attached Misc. Plan No. 14613/1, from the Province of Manitoba and transferring part of DP 6788 to Ladco Company Limited.

    5. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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:	August 28, 2014
File No.	ZAA 10/2014

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

DATE: August 28, 2014

FILE: ZAA 11/2013
RELATED FILES: DASZ 33/2012

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.682 (Waverley West Plan Area D – Southwest Neighbourhood)

SUBJECT: For consideration at the Public Hearing to add clauses to zoning agreement DASZ 33/2012 (By-law 68/2013) requiring the developer to construct a berm and fencing parallel to PTH100 on all lots that abut PTH 100.

LOCATION: Waverley West Neighbourhood Plan Area "D" (as shown in the image below)



APPLICANT: Ladco Company Ltd. (Mike Carruthers)
200-40 Lakewood Blvd.
Winnipeg, MB R2J 2M6

OWNER: Ladco Company Ltd.
200-40 Lakewood Blvd.
Winnipeg, MB R2J 2M6

RECOMMENDATION: Approval

SITE DESCRIPTION

- The subject site is located between Brady Road, Kenaston Boulevard, the Perimeter Highway (PTH 100) and the Waverley West – West Neighbourhood (Neighbourhood Plan Area "E") in the South Pointe neighbourhood of the St. Norbert Ward.
- The site is vacant and is approximately **636 acres in area.**
- The site is located in the Areas of Stability – Recent Communities Policy Area under the Complete Communities Direction Strategy.
- The site is also identified as Neighbourhood Plan Area "D" under the Waverley West Area Structure Plan (By-law 10/2006) and is zoned "A" Agricultural.



Figure 1: Aerial photograph showing approximate area of the subject site (2012)

SURROUNDING LAND USES AND ZONING (See Figure 2)

North: The southern limit of Neighbourhood Plan Area "E" under the Waverley West Area Structure Plan. The Neighbourhood Area Structure Plan for Area "E" was recently approved under SP 1/2012. The corresponding subdivision and rezoning DASZ 8/2012 was also recently approved by Council. Virtually all of the land along the southern boundary of Neighbourhood Plan Area "E" is zoned R1-M.

South: The Perimeter Highway (PTH 100) and the Brady Landfill, which is zoned A.

East: The Kenaston Extension and Neighbourhood Plan Area "C" (Waverley West Southeast Neighbourhood – South Pointe).

West: Brady Road and the City of Winnipeg western boundary.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- Per DASZ 33/2012 (By-law 68/2013), the applicant has been approved to subdivide and rezone the subject +/-625 acre site.
- As discussed within the History Section of this report, Drain Plan 6788, which is registered in title to the Province, runs through the subject plan area of DASZ 33/2012. Under DASZ 33/2012, Drain Plan 6788 will be incorporated into the land drainage system (notably the retention ponds) that services the planned area of DASZ 33/2012.
- Within the application for DASZ 33/2012, the Province of Manitoba provided a letter stating "that Manitoba Infrastructure and Transportation (MIT) – the Provincial entity in control of Drain Plan 6788 – has no concerns with the proposed subdivision subject to further discussions and agreement between the City of Winnipeg, the developer, and the Province of Manitoba concerning ownership, long term maintenance and operations of the drain plan."
- The Province of Manitoba cannot transfer part of DP 6788 to a private entity for a below market value price, but can transfer part of DP 6788 to the City (a Provincial Municipality) at the below market value price of $1.00.
- This process is similar to the process for DASZ 22/2007 for the adjacent Waverley West Southeast Neighbourhood, which included the following clause of approval: "That the City will transfer part of Drain Plan No.6788 WLTO to the Developer for incorporation within the plan of subdivision subject to the Developer paying all administration costs incurred by the City in acquiring the subject Drain from the Province of Manitoba."
- Among the conditions of the transfer of lands included in Drain Plan 6788 is that the developer construct a berm and fencing parallel to PTH 100, to the satisfaction of the City of Winnipeg, for all lots that abut PTH 100.

ANALYSIS OF THE ZONING AGREEMENT AMENDMENT

- The Public Administration has no concerns with proposed zoning agreement amendment as it:
    - will help ensure pedestrian safety by reducing potential openings along PTH 100; and,
    - facilitates the transfer of Drain Plan 6788, which ultimately results in the creation of an urban standard land drainage system in the Southwest Neighbourhood of Waverley West.

RECOMMENDATION

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

- The added clause to the zoning agreement for DASZ 33/2012*:*
    - helps ensure pedestrian safety by reducing potential openings along PTH 100; and,
    - facilitates the transfer of Drain Plan 6788, which ultimately results in the creation of an urban standard land drainage system in the Southwest Neighbourhood of Waverley West.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # ZAA 10/2014