Minute No. 521
Report – Executive Policy Committee – September 21, 2016

Item No. 1 **Zoning Agreement Amendment – 83 Oakhurst Crescent (Old Kildonan Ward) File ZAA 6/2016**

COUNCIL DECISION:

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

1. That Zoning Agreement under File DASZ 39/85, (By-law No. 4407/86), be amended as follows:

   A. That Clause 3 be deleted and replaced with the following:

   That no portion of any wall of any principal building shall be located closer than 51 feet to the easterly limit of the Pipeline Road right-of-way.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 39/85, (By-law No. 4407/86) 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 – September 21, 2016

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2016, 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 September 13, 2016, 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 – 83 Oakhurst Crescent**
File ZAA 6/2016

For submission to: **Executive Policy Committee**

Prepared by: **Ms I. Skundberg, Committee Clerk**
Lord Selkirk-West Kildonan Community Committee

Report date: **September 15, 2016**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2016, 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 39/85, (By-law No. 4407/86), be amended as follows:

   A. That Clause 3 be deleted and replaced with the following:

      That no portion of any wall of any principal building shall be located closer than 51 feet to the easterly limit of the Pipeline Road right-of-way.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 39/85, (By-law No. 4407/86) 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 reasons for its recommendation:

1. This is a good project, and folks will definitely get good enjoyment out of this being a winter city.

2. There is no opposition so I see no issues with this at all.

PUBLIC HEARING SUMMARY

File: ZAA 6/2016

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

Hearing: September 13, 2016
Council Building, 510 Main Street

Applicant: Sunshine Products Ltd. (Brad Deserranno)

Subject:



Premises Affected: 83 Oakhurst Crescent

Exhibits Filed:

1. Application dated June 16, 2016
2. Notification of Public Hearing dated June 23, 2016
3. Manitoba Status of Title 1205749/1
4. Letter of authorization dated June 2, 2016 from Blake Morden and Shirley Morden to SunShade Products Inc.
5. Surveyor's Building Location Certificate and sketch dated November 12, 1990
6. Zoning Agreement for File DASZ 39/85
7. Plans (3 pages)
8. Report from the Urban Planning Division dated August 24, 2016
9. Inspection Report
10. Recording of Representations

REPRESENTATIONS:

In Support:

Brad Deserranno, Sunshine Products Ltd.

In Opposition

Nil

For Information:

Nil

For the City:

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

Exhibit "8" referred to in File ZAA 6/2016

ADMINISTRATIVE REPORT

Title: ZAA 6/16 – 83 Oakhurst Crescent

Issue: Zoning Agreement Amendment to amend Clause 3 of the Zoning Agreement for DASZ 39/85, which states: "No principal building (except projections permitted into yards by the applicable Zoning By-law or Town Planning Scheme) shall be located within 17.68 metres (58 feet) of the abutting limits, respectively, of Leila Avenue and Pipeline Road",

in order to allow the construction of a sunroom addition to an existing dwelling having a setback of 51 feet to Pipeline Road instead of 58 feet.

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	Division Head	CFO	CAO
Noah Yauk, MCIP	Braden Smith, MCIP	N/A	

RECOMMENDATIONS

1. That Zoning Agreement under File DASZ 39/85, (By-law No. 4407/86), be amended as follows:

   A. That Clause 3 be deleted and replaced with the following:

   That no portion of any wall of any principal building shall be located closer than 51 feet to the easterly limit of the Pipeline Road right-of-way.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 39/85, (By-law No. 4407/86) 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 property owner wishes to build a 3 season sunroom at the rear of their home.
- The property has a Zoning Agreement caveated on the Certificate of Title by the City of Winnipeg, of which one of the clauses restricts the yard setback to Pipeline Road to a minimum of 58 feet.
- The applicant is proposing a setback of 51 feet to accommodate the sunroom and therefore, requires a zoning amendment to do so.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Planning and Land Use Division are concurred in, the subject clause will be amended to allow the proposed sunroom.

HISTORY

DASZ 39/85

- Council approved, under DASZ 39/85, an application to rezone the subject property to an *'R1' Residential Single-Family* District" to allow the development of single family homes.
- The rezoning included a Zoning Agreement. One clause of the zoning agreement is that no building can be located within 58 feet of the Pipeline Road right-of-way.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Date:	August 24, 2016
File No.	ZAA 6/16

APPENDIX 'A'

DATE: August 24, 2016

FILE: ZAA 6/16
RELATED FILES: DASZ 39/85 (By-law No. 4407/86)

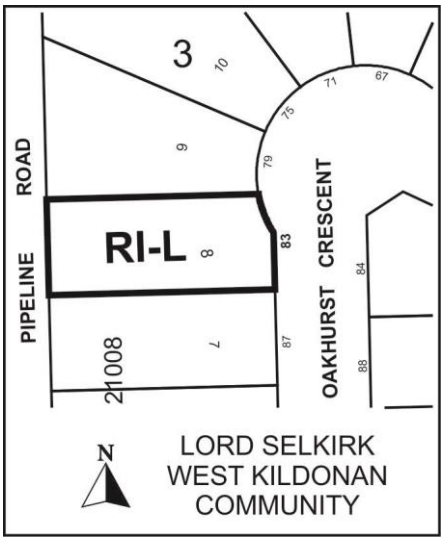
COMMUNITY: Lord Selkirk / West Kildonan

NEIGHBOURHOOD #: 3.320 (Leila McPhillips Triangle)

SUBJECT: For consideration at the Public Hearing to amend the Zoning Agreement related to a yard setback by adding amending Clause 3 which requires a minimum setback to Pipeline Road of 58 feet.

LOCATION: 83 Oakhurst Cres

LEGAL DESCRIPTION: Lot 8, Block 3, Plan 21008 WLTO IN OTM LOTS 12 TO 15 PARISH OF KILDONAN



APPLICANT: Sunshade Products Ltd (Brad DeSerranno)
265 Sutherland Avenue
R2W 2N5 WPG, MB

Owner: Blake and Shirley Morden
83 Oakhurst Cres
WINNIPEG MB R2P 2L9

RECOMMENDATION: Amend Zoning Agreement

REPORT SUMMARY

The Urban Planning Division recommends the application be approved as:

- The sunroom will still be set back more than 50 feet to the rear property line;
- There are examples of similar zoning agreement amendments to allow sunrooms to be located slightly closer to major roadways (for example 63 and 67 William Whiteway Bay which back onto Main Street).

SITE DESCRIPTION

Land Use and Zoning

The subject site is zoned "R1-L" Residential Single-Family District and is located on Oakhurst Crescent, which backs onto Pipeline Road between Monty Hall Drive and Leila Avenue. The site is located in the Leila-McPhillips Triangle Neighbourhood of the Old Kildonan Ward.

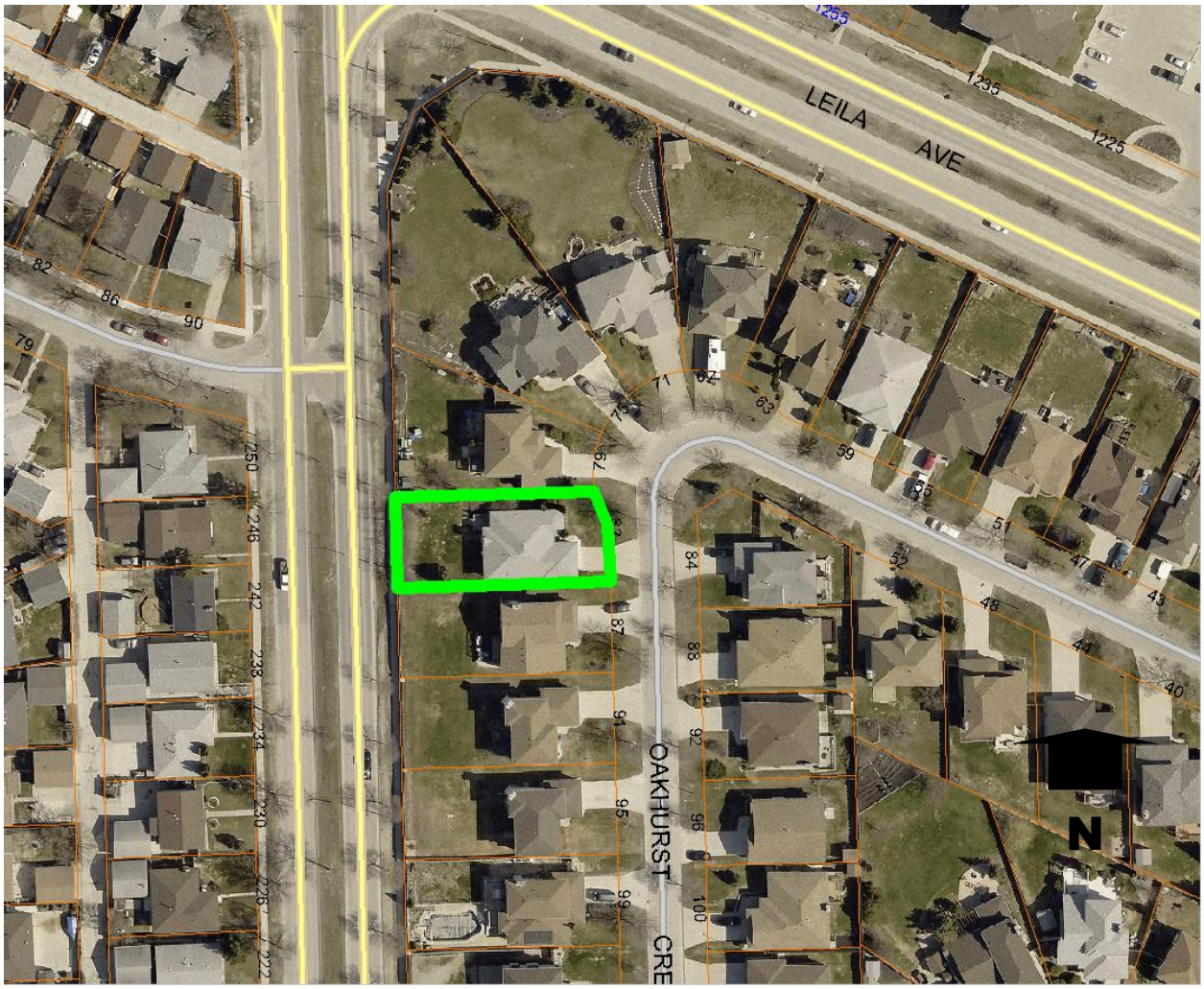


Figure 1: Approximate Boundary of the Subject Site (Aerial Flown 2012)

SURROUNDING LAND USES & ZONING

North: Single-family residences zoned “R1-L” Residential Single-Family District.
South: Single-family residences zoned “R1-L” Residential Single-Family District.
East: Oakhurst Crescent, then single-family residences zoned “R1-L” Residential Single-Family District.
West: Pipeline Road then single-family residences zoned “R1-M” Residential Single-Family District.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The property owner wishes to build a 3 season sunroom at the rear of their home.
- The property has a Zoning Agreement caveated on the Certificate of Title by the City of Winnipeg, of which one of the clauses restricts the yard setback to Pipeline Road to a minimum of 58 feet (17.68 metres).
- The applicant is proposing a setback of 51 feet to accommodate the sunroom and therefore, requires a zoning amendment to do so.

ANALYSIS AND ISSUES

The subject site is located within the Areas of Stability – Recent Communities policy area of the *Complete Communities Direction Strategy.*

- A key policy guiding the development of Areas of Stability is to:
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complementary the existing scale, character and built form.

It is noted that the proposed sunroom does not alter the built form significantly and is consistent with OurWinnipeg.

ZONING AGREEMENT

While the proposed rear yard setback exceeds the minimum rear yard setback of 25 feet as prescribed in zoning by-law 200/2006 for the “R1-L” Zoning District, the zoning agreement legally requires a building setback of 58 feet.

Such clauses with respect to increased setbacks along major thoroughfares are common in zoning agreements to address concerns (such as traffic noise) and are typically recommended by the Public Work’s Department. Though the proposed three season sunroom is technically part of the principal residential building that the zoning agreement setback applies to, one could argue that such a use is more accessory in nature and, therefore, meets the intent of the zoning agreement. It would be interesting to know whether the setback condition would have exempted three season sunrooms if one were contemplated during the original application.

It should also be noted that the enjoyment of the property is already influenced by the traffic on Pipeline Road and that the owner is aware of this situation. In light of this, one could argue that any nuisance this development could incur would be self-imposed by the property owner. One could also argue that a three season sunroom could increase the enjoyment or use of the back yard for its residents simply by its existence as a buffer to existing and future traffic noise on Pipeline Road. This is suggesting that

traffic noise from Pipeline Road would be less prevalent inside a 3 season sunroom then within the unprotected rear yard.

RECOMMENDATION

The Urban Planning Division recommends the application be approved because:

- The sunroom will still be set back more than 50 feet to the rear property line;
- There are examples of similar zoning agreement amendments to allow sunrooms to be located slightly closer to major roadways (for example 63 and 67 William Whiteway Bay which back onto Main Street).

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

Report Prepared By: Noah Yauk
PPD File # ZAA 6/16