Minute No. 640
Report – Executive Policy Committee – October 11, 2017

Item No. 2 Zoning Agreement Amendment – 15 Gelhorn Place (Old Kildonan Ward) File ZAA 2/2017

COUNCIL DECISION:

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

1. That Zoning Agreement Caveat 2297030/1 under File DASZ 14/97 dated Sept. 1, 1998 (By-law 7250/1998), be amended as follows:

   A. That Clause 3(a) be amended by removing the value "85" and replacing it with "71.9".

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 14/97 (By-law 7250/1998) 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 – October 11, 2017

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 October 11, 2017, 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 19, 2017, 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 – 15 Gelhorn Place**
File ZAA 2/2017

For submission to: **Executive Policy Committee**

Prepared by: **P. Prinsloo, Committee Clerk**
Lord Selkirk-West Kildonan Community Committee

Report date: **September 19, 2017**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 19, 2017, 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 Caveat 2297030/1 under File DASZ 14/97 dated Sept. 1, 1998 (By-law 7250/1998), be amended as follows:

   A. That Clause 3(a) be amended by removing the value "85" and replacing it with "71.9".

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 14/97 (By-law 7250/1998) 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 Public Service did not raise any concerns associated with this application.

PUBLIC HEARING SUMMARY

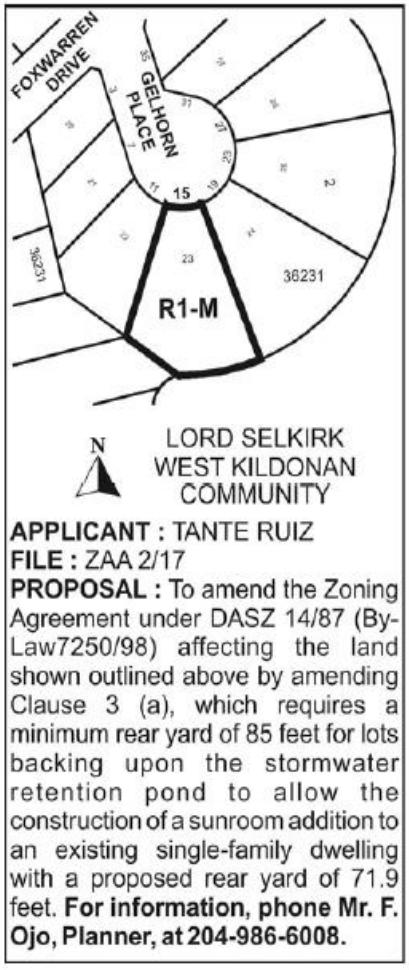
File: ZAA 2/2017

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

Public Hearing: September 19, 2017
Council Building, 510 Main Street

Applicant: Tante Ruiz

Subject:



Premises Affected: 15 Gelhorn Place

Exhibits Filed:

1. Application dated July 17, 2017
2. Notification of Public Hearing dated August 2, 2017
3. Manitoba Status of Title 2151136/1
4. Letter of authorization dated May 31, 2017, from Tante Ruiz and Alda Ruiz to Tante Ruiz
5. Zoning Agreement dated December 2, 1987, between the City of Winnipeg and Roebuck Ltd.
6. Plans (9 pages)
7. Report from the Urban Planning Division dated September 5, 2017
8. Inspection Report
9. Recording of Representations

REPRESENTATIONS:

In Support:

Tante Ruiz

In Opposition:

Nil

For Information:

Nil

For the City:

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

Exhibit "7" referred to in File ZAA 2/2017

ADMINISTRATIVE REPORT

Title: ZAA 2/17 – 15 Gelhorn Place

Issue: For consideration at the Public Hearing to amend the Zoning Agreement to permit a minimum rear yard of 71.9 feet instead of 85 feet to facilitate the construction of an addition (3-season sunroom) to the existing dwelling.

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	N/A	N/A	N/A

RECOMMENDATIONS

1. That Zoning Agreement Caveat 2297030/1 under File DASZ 14/97 dated Sept. 1, 1998 (By-law 7250/1998), be amended as follows:

   A. That Clause 3(a) be amended by removing the value "85" and replacing it with "71.9".

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 14/97 (By-law 7250/1998) 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 construct a 3-season sunroom onto the existing house in the rear yard of 15 Gelhorn Place. The property backs onto a stormwater retention lake.

- The rear wall of the proposed sunroom addition will be 71.9 feet away from the rear property line. The minimum rear yard setback for principal buildings is 85 feet under zoning agreement DASZ 14/97 due to the proximity to the stormwater retention lake.
- The applicant is applying to amend the above noted clause to accommodate the proposed sunroom addition.
- 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, a rear yard setback of 71.9 feet measured from the rear property line to the principal building will be permitted on the subject site.

HISTORY

DASZ 14/98

- DASZ 14/98 involved the subdivision and rezoning of lands in the neighbourhood of Mandalay West. The development required stormwater retention lakes. Some of the lots created through DASZ 14/98 abut the stormwater retention lakes. As a result, a condition of approval was recommended by the Water and Waste Department to ensure enough distance between proposed dwellings and the stormwater retention lake. The subject condition included in the zoning agreement relevant to the subject application (ZAA 14/98) is as follows:

  3. Minimum rear yards for all lots backing upon the proposed stormwater retention pondsshall be as follows:

     a) 85 feet to any principal dwelling,

     b) 67 feet to any accessory structure.

CONSULTATION

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

SUBMITTED BY

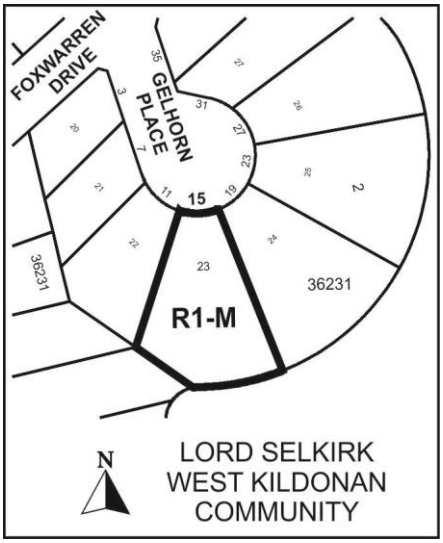
Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Noah Yauk, MCIP RPP
Date:	September 5, 2017
File No.	ZAA 2/17

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

DATE:	September 5, 2017
FILE:	ZAA 2/17
RELATED FILES:	DASZ 14/97 (B/L 7250/98)
COMMUNITY:	LSWK
NEIGHBOURHOOD #:	3.321 (Mandalay West)
SUBJECT:	For consideration at the Public Hearing to amend Clause 3(a) of the Zoning Agreement to permit a minimum rear yard of 71.9 feet instead of 85 feet to facilitate the construction of an addition (3-season sunroom) to the existing dwelling.
LOCATION:	15 Gelhorn Place
LEGAL DESCRIPTION:	Lot 23 Block 2 Plan 36231 SE 36 11 2E



APPLICANT: Tante Ruiz
15 Gelhorn Place.
Winnipeg, MB R2P 2x4

OWNER: Tante and Alda Ruiz
15 Gelhorn Place.
Winnipeg, MB R2P 2x4

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant is proposing to construct a 3-season sunroom onto the existing house in the rear yard of 15 Gelhorn Place. The property backs onto a stormwater retention lake.
- The rear wall of the proposed sunroom will be 71.9 feet away from the rear property line. The minimum rear yard setback for principal buildings is 85 feet under zoning agreement DASZ 14/98 due to its proximity to the stormwater retention lake.
- The applicant is applying to amend zoning agreement DASZ 14/98 to permit a rear yard setback of 71.9 feet in order to accommodate the proposed sunroom addition.
- The Urban Planning Division recommends supporting this application because:
    - The primary reason for including the rear yard setbacks stipulated in the zoning agreement is to protect structures on lots abutting the retention lake from flooding and related damage in the event of a 100-year storm.
    - The City's Water and Waste Department was consulted about the subject application and have no objections to the development.
    - The sunroom addition will have virtually no impact on neighbouring views of the retention lake.

SITE DESCRIPTION

- The subject property is located on the south side of Gelhorn Place in the Mandalay West neighbourhood of the Old Kildonan Ward.
- The property is **15,643 square feet** in area.
- The subject property contains a bi-level, 1,548 square foot home with an attached garage that was built in 1999.
- The property backs onto a stormwater retention lake to the south.
- The site is within the Areas of Stability – Recent Communities Policy Area under the Complete Communities Direction Strategy. The property is zoned "R1-M" Residential Single-Family Medium.

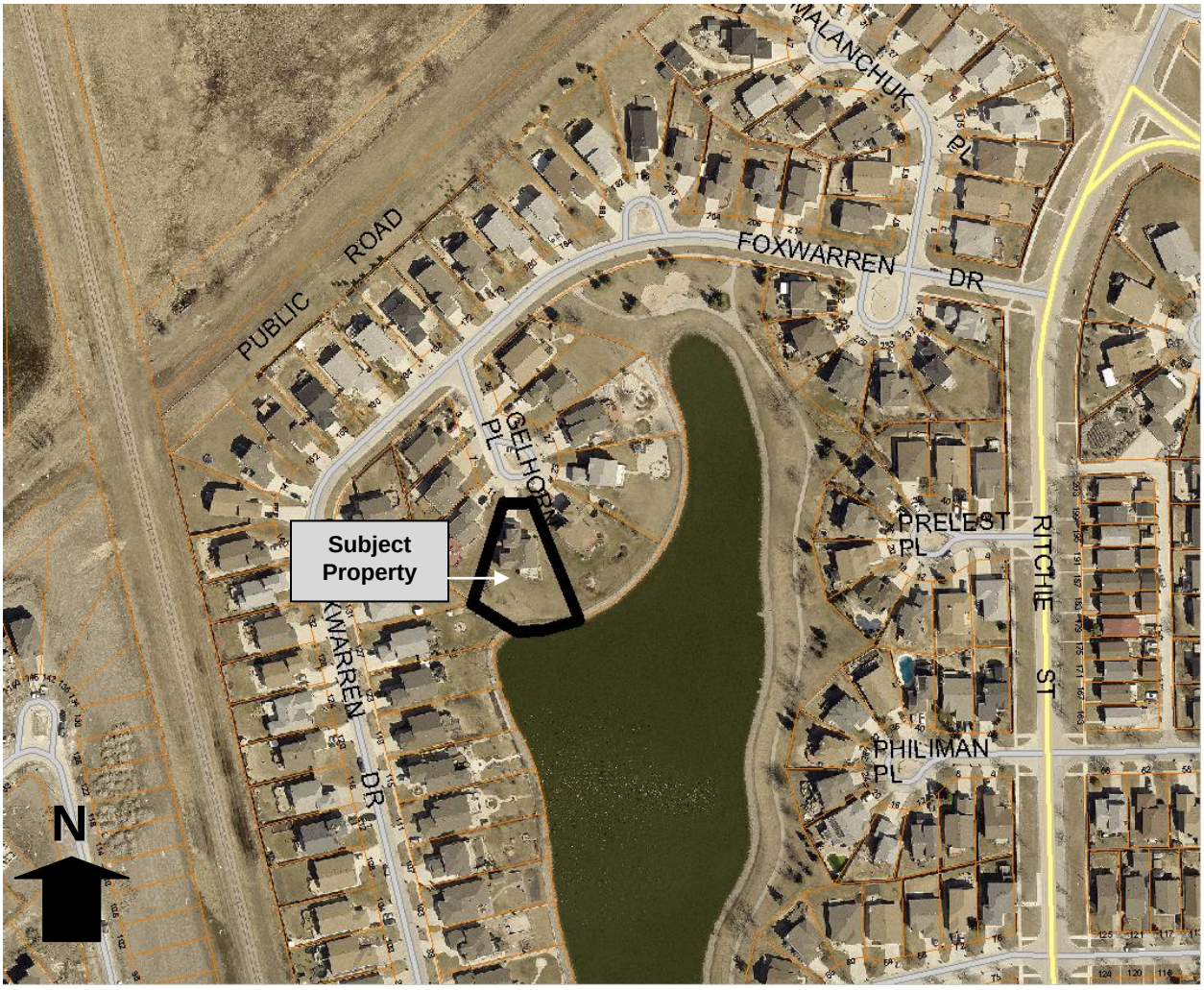


Figure 1: Aerial photograph showing approximate area of subject property (flown 2016)

SURROUNDING LAND USES & ZONING (See Figure 2)

North: Gelhorn Place then single-family homes zoned “R1-M” Residential Single-Family Medium.

South: Stormwater retention pond zoned “PR-1” Parks and Recreation.

East: Single-family homes zoned “R1-M” Residential Single-Family Medium.

West: Single-family homes zoned “R1-M” Residential Single-Family Medium.

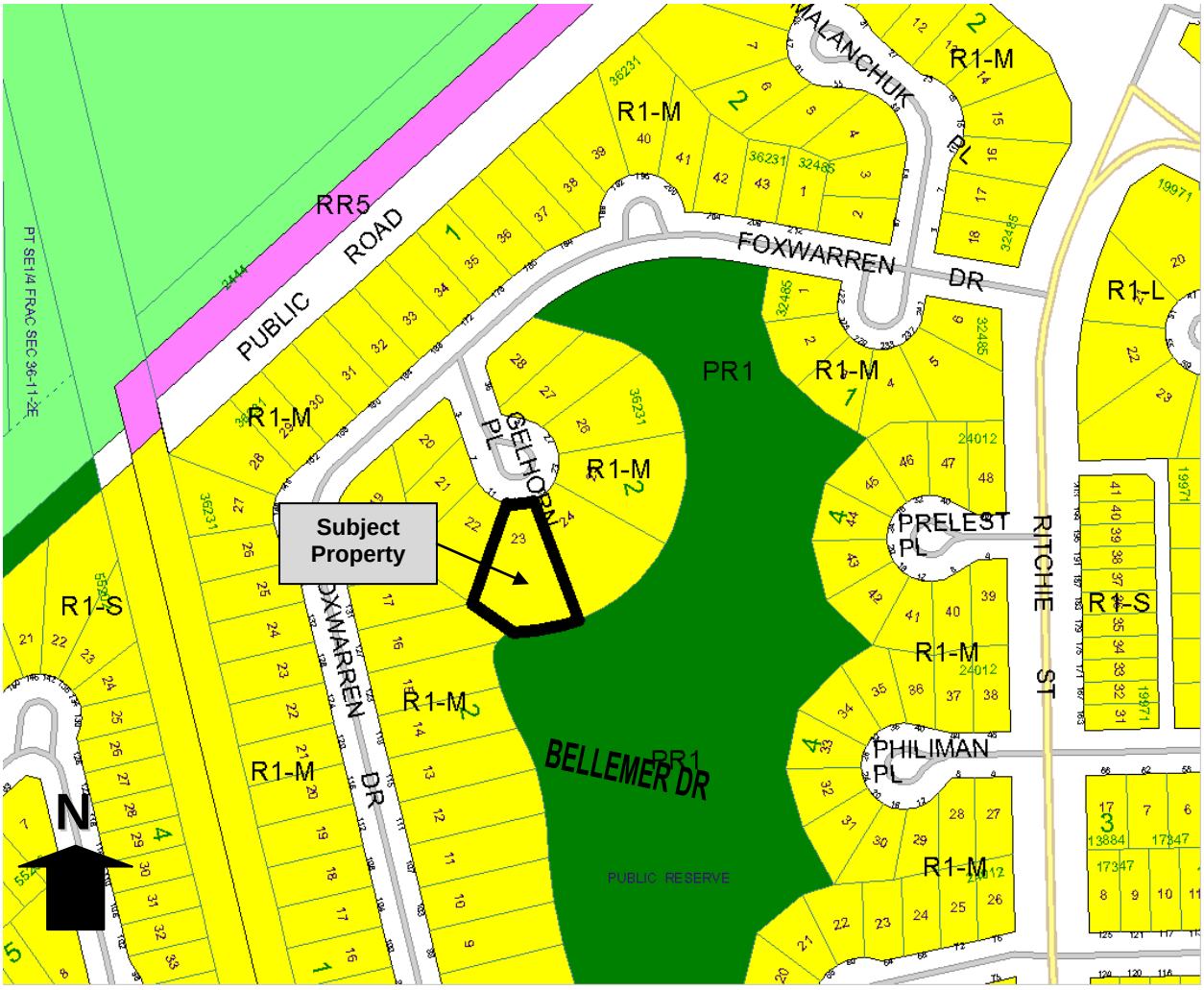


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to construct a sunroom that will be approximately 12’ x 17’ feet (about 200 sq ft) to the rear of the existing house at 15 Gelhorn Place.
- The rear wall of the sunroom addition will be 71.9 feet away from the rear property line. The minimum rear yard setback for principal buildings is 85 feet under zoning agreement DASZ 14/98 due to the proximity to the stormwater retention lake.

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. Key relevant policies guiding development within 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.
    - Support Complete Communities by ensuring diverse and high quality housing stock.
    - 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

"R1-M" Residential Single-Family Medium District

- The R1-M district requires: a minimum lot width of 25 feet, a minimum lot area of 3,500 square feet, side yards of 4 feet, a front yard of 15 feet, and a rear yard of 25 feet. The maximum building height is 35 feet and the maximum lot coverage is 45 percent.

LAND USE BY-LAW

Zoning Agreement DASZ 14/98

Clause 3 reads as follows:

3. Minimum rear yards for all lots backing upon the proposed stormwater retention ponds shall be as follows:

    a) 85 feet to any principal dwelling,

    b) 67 feet to any accessory structure.

- The applicant is proposing to construct a sunroom addition that will be 71.9 feet away from the rear property line and therefore does not comply with the above Clause 3(a) of the zoning agreement.

RATIONALE FOR REAR YARD SETBACK IN THE ZONING AGREEMENT

- The rear yard setback incorporated into the zoning agreement is intended to accommodate fluctuations in the water level of the stormwater retention pond.
- The rear yard setback applied to principal and detached buildings, temporary buildings and swimming pools is intended to provide for an adequate amount of usable on-site rear yard space after the lake has reached its highest design level, which is a 100-year storm frequency. Further, the setback stipulated in the Zoning Agreement is also intended to guard against potential legal repercussions in the event of a 100-year storm.

- The City's Water and Waste Department was consulted about the subject application and have no objections thereto.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The sunroom addition will have virtually no impact on neighbouring views of the retention pond.

RECOMMENDATION

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

- The primary reason for including the rear yard setbacks stipulated in the zoning agreement is to protect structures on lots abutting the retention pond from flooding and related damage in the event of a 100-year storm.
- Water and Waste were consulted about the subject application and have no objections to the proposed development.
- The sunroom addition will have virtually no impact on neighbouring views of the retention pond.

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

Report Prepared By: Noah Yauk
PPD File # ZAA 2/17