Agenda – Council – May 27, 2021

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 19, 2021

Item No. 8 Zoning Agreement Amendment – 153 Brittany Drive (Charleswood-Tuxedo-Westwood Ward) File ZAA 4/2020

STANDING COMMITTEE RECOMMENDATION:

On April 21, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That the Zoning Agreement under File DASZ 8/2005 dated June 1, 2005 (By-law No. 138/2005), be amended in respect of the subject property (Lot 4 Block 3 Plan 44426 WLTO in RL 35/5 St. Charles) to permit the issuance of a building permit without being part of a land assembly and subdivision with adjacent lands.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

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

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 19, 2021

DECISION MAKING HISTORY:

On April 29, 2021, Council laid the matter over its meeting on May 27, 2021.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 21, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On April 19, 2021, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 9, 2021, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

PUBLIC HEARING SUMMARY

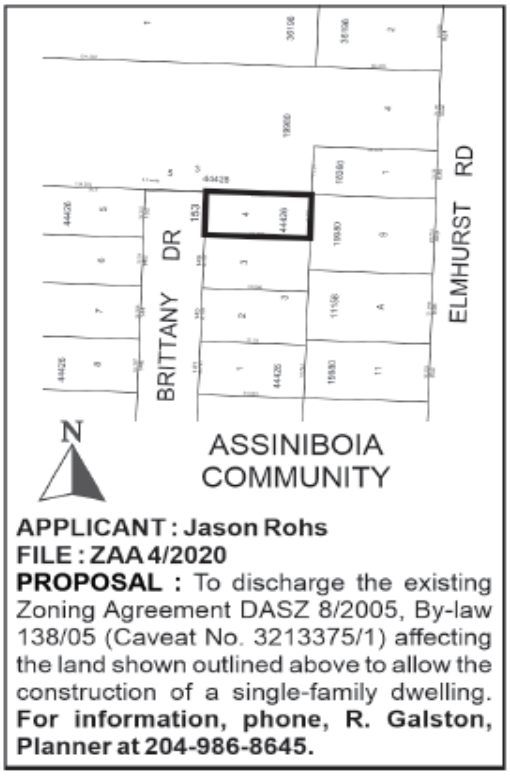
File: ZAA 4/2020

Before: Assiniboia Community Committee
Councillor Klein, Chairperson
Councillor Gillingham
Councillor Lukes

Public Hearing: April 9, 2021
Council Building, 510 Main Street

Applicant: Jason Rohs

Subject:



APPLICANT : Jason Rohs
FILE : ZAA 4/2020
PROPOSAL : To discharge the existing Zoning Agreement DASZ 8/2005, By-law 138/05 (Caveat No. 3213375/1) affecting the land shown outlined above to allow the construction of a single-family dwelling. **For information, phone, R. Galston, Planner at 204-986-8645.**

Premises Affected: 153 Brittany Drive

For submission to: The Standing Policy Committee on Property and Development, Heritage and Downtown Development

Prepared by: L. Cowan, Senior Committee Clerk
Assiniboia Community Committee

Report date: April 9, 2021

Community Committee Recommendation:

On April 9, 2021, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development:

1. That the Zoning Agreement under File DASZ 8/2005 dated June 1, 2005 (By-law No. 138/05), be amended in respect of the subject property (Lot 4 Block 3 Plan 44426 WLTO in RL 35/5 St. Charles) to permit the issuance of a building permit without being part of a land assembly and subdivision with adjacent lands.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

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

The Assiniboia Community Committee provided the following supporting reasons for its recommendation:

1. The property in question is the same depth as all other properties on Brittany Drive. It is five feet narrower which is not substantial, I don't believe, in the context of many other properties developed in Charleswood and in fact throughout Winnipeg.

2. It is a lot that is a developable lot, and I believe it is in accordance with many of the OurWininpeg and Complete Communities plans to encourage appropriate infill development. The services are all in place, and so for those reasons I will be, I have supported the application.

Exhibits Filed:

1. Application dated December 23, 2020
2. Notification of Public Hearing dated February 26, 2021
3. Manitoba Status of Title 2723691/1
4. Letter of authorization dated December 10, 2020 from 5780714 Manitoba Ltd. (Agatha Rohs) to Jason Rohs
5. Caveat 3213375
6. Zoning Agreement dated July 27, 2005 between The City of Winnipeg and Jaymic Development Ltd.
7. Schedule "A" – Zoning Agreement Section 240 The City of Winnipeg Charter between The City of Winnipeg and Jaymic Development Ltd.
8. Plan 44426
9. Report from the Urban Planning Division dated March 18, 2021
10. Inspection Report
11. Submission from Bruno Zimmer in opposition to the application
12. Communication dated April 5, 2021 from David Woloschuk, in opposition to the application
13. Submission dated April 1, 2021 from Sergio Almeida, purporting to contain thirty (30) signatures of area residents, in opposition to the application
14. Submission dated April 4, 2021 from Mike Doig and Ainsley Richardson-Doig, in opposition to the application

REPRESENTATIONS:

In Support:

Jason Rohs

In Opposition:

Sergio Almeida
Andrea Almeida
Mike Doig
Ryan Garriock
Ainsley Richardson-Doig
David Woloschuk
Bruno Zimmer

For Information:

Nil

For the City:

R. Glaston, Urban Planner, Planning, Property and Development Department

Exhibit "9" referred to in File ZAA 4/2020

ADMINISTRATIVE REPORT

Title: ZAA 4/2020 – 153 Brittany Drive

Issue: For consideration at the Public Hearing for a Zoning Agreement Amendment to remove a clause from the Zoning Agreement in order to allow the development of a single-family dwelling.

Critical Path: Assiniboia 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
R. Galston, MCP	n/a	n/a	

RECOMMENDATIONS

1. That the Zoning Agreement under File DASZ 8/2005 dated June 1, 2005 (By-law No. 138/05), be amended in respect of the subject property (Lot 4 Block 3 Plan 44426 WLTO in RL 35/5 St. Charles) to permit the issuance of a building permit without being part of a land assembly and subdivision with adjacent lands.
2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").
3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.
4. That, the proper officers of the City be authorized to do all things necessary to implement the intent of the forgoing.

REASON FOR THE REPORT

- Zoning Agreement Amendment applications 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 Winnipeg Public Service are concurred in, the subject Zoning Agreement will be amended to allow the issuance of a building permit on the subject property.

CONSULTATION

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

OURWINNIPEG POLICY ALIGNMENT

- The proposed development aligns with *OurWinnipeg* Section 01, Direction 3: *"Promote Compact Urban Form and Manage the Extension of Municipal Services for New Growth."*

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

- The proposed development would align with the following Key Direction in the Winnipeg Climate Action Plan: *"Ensure New Areas of Growth are Designed According to the Principles of Complete Communities."*

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by	Robert Galston, MCP
Date:	March 18, 2021
File No.	ZAA 4/2020

List of Schedules and Attachments

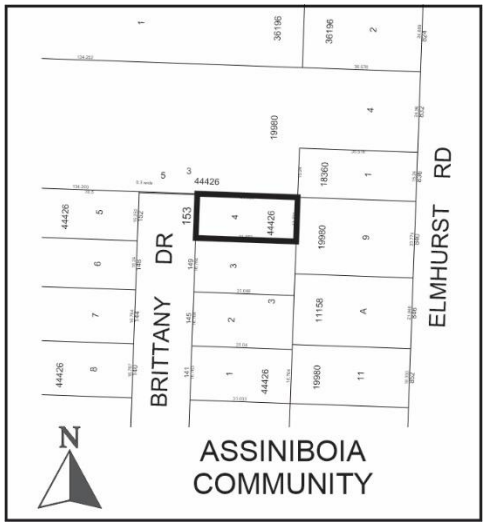
1. Appendix "A" Planning Discussion

APPENDIX 'A'

DATE: March 18, 2021
FILE: **ZAA 4/2020**
RELATED FILES: n/a
COMMUNITY: Assiniboia Community
NEIGHBOURHOOD #: 2.636 (Elmhurst)

SUBJECT: For consideration at the public hearing at the Public Hearing for a Zoning Agreement Amendment to remove a clause from the Zoning Agreement to enable the development of a single-family dwelling.

LOCATION: 153 Brittany Drive
LEGAL DESCRIPTION: LOT 4 BLOCK 3 PLAN 44426 35/5 ST C



APPLICANT: Jason Rohs
7 Sanctuary Road
Winnipeg, Manitoba R3R 3J9

OWNERS: 5780714 Manitoba Ltd. (Agatha Rohs)
7 Sanctuary Road
Winnipeg, Manitoba R3R 3J9

RECOMMENDATION: Approval

HISTORY

DASZ 8/2005

On July 27, 2005, Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. *That the plan of subdivision proposed under File DASZ 8/2005 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 8/2005 dated June 1, 2005, for registration in the Winnipeg Land Titles Office subject to the following:*

    A. *That the Developer be required to enter into a Development Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated April 18, 2005.*

2. *That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.*

3. *That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 8/2005 dated June 1, 2005, to an "R1-5.5A" Residential District subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240(1) of The City of Winnipeg Charter to include the following condition:*

    A. *That a caveat be placed on the titles of proposed Lot 5, Block 1 and Lot 4, Block 3 prohibiting the issuance of a building permit on these properties unless they are included as part of a land assembly and subdivision with the adjacent lands, specifically being Lot 1, Plan 36196 and Lot 4, S.P. Plan 19980.*

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 City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.*

6. *That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.*

7. *That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office, and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.*

8. *That the Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.*

9. *That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter*

shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

DISCUSSION

SITE DESCRIPTION

- The subject property is located on the east side of Brittany Drive in the Elmhurst Neighbourhood of the Charleswood – Tuxedo - Westwood Ward.
- The subject property is currently 4,591 square feet in area. It is currently vacant.
- The site is within the Recent Communities Policy Area under the *Complete Communities Direction Strategy* and is currently zoned "R1-L" Residential Single Family (Large).



Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2018)*

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: A mix of single-family residential and vacant uses zoned "R1-E" Residential Single-Family (Estate).

South: Single-family residential uses zoned "R1-L" – Residential Single-Family (Large).

East: Single-family residential uses zoned "R1-E" – Residential Single-Family (Estate).

West: Brittany Drive, then single-family residential uses zoned "R1-L" Residential Single-Family (Large).



Figure 2: Zoning of the Site and Surrounding Area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- **The applicant has communicated to the City of Winnipeg that they wish to develop the subject vacant property by constructing a new single-family dwelling thereon.**
- **As noted above, an amendment to the Zoning Agreement is needed in order allow a building permit for a single-family dwelling to be issued.**
- **Design drawings for a future single-family dwelling have not been submitted with this application.**

COLLABORATION AND PUBLIC CONSULTATION

- **The applicant made contact with the Urban Planning Division prior to making an application.**
- **The Urban Planning Division advised the applicant that consultation with residents of neighbouring properties should be undertaken. The applicant stated that he intended to drop off letters at Brittany Drive properties, advising residents of his intention to apply to amend the Zoning Agreement, and let them know they may contact him if they have questions or concerns.**
- **The applicant has yet to communicate the results of this maildrop with the Urban Planning Division.**

ANALYSIS AND ISSUES

OURWINNIPEG AND COMPLETE COMMUNITIES DIRECTION STRATEGY

- *OurWinnipeg* is the City's long-range development plan. The Key Direction of *OurWinnipeg* regarding Areas of Stability states:
    - *Enhance the quality, diversity, completeness and sustainability of stable neighbourhoods and expand housing options for Winnipeg's changing population.*
- The *Complete Communities Direction Strategy* is one of four direction strategies supporting *OurWinnipeg*, the city's long-range development plan, and has statutory authority as a secondary plan. The strategy guides land use and development in Winnipeg.
- As noted above, the subject property is located in what is classified as an Area of Stability in *Complete Communities'* Urban Structure map. Areas of Stability will accommodate low to moderate density infill development in order to support more efficient use of land, infrastructure and services, as well as enhance housing choice and affordability.
- With regard to this proposal, key policies guiding the development of Areas of Stability include:
    - *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.*
    - *Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.*
    - *Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.*
    - *Support the subdivision of a parcel of land into two or more lots when it is done in a context sensitive manner.*

ZONING

- **As noted above, the current zoning of the subject property is "R1-L" Residential Single-Family (Large).**
- **The "R1" Residential Single-Family zoning districts are intended to accommodate primarily single-family residential development.**

AMENDMENT TO ZONING AGREEMENT

- As outlined above in the History section of this report, a caveat on the subject property under file no. DASZ 8/2005 prohibits the issuance of a building permit, unless it was included as part of a land assembly and subdivision with adjacent lands (to the north).
- The proposed Zoning Agreement Amendment would permit the issuance of a building permit without any land assembly and subdivision with lands to the north.
- This proposed amendment was circulated to all relevant departments of the Winnipeg Public Service, with no concerns raised.

ANALYSIS OF ZONING AGREEMENT AMENDMENT

Future Planned and Orderly Development

- As noted above, the proposed Zoning Agreement Amendment will enable the development of a single-family residential dwelling on the subject property. The Urban Planning Division is supportive of this amendment.
- The Urban Planning Division believes the intention of the relevant caveat of the Zoning Agreement under file no. DASZ 8/2005 was to ensure that this lot was developed under a future consolidation and extension of Brittany Drive on properties to the north of the subject property. Since 2005, no consolidation has occurred, and the Urban Planning Division is not aware of any proposal for the respective land owners to work together to extend Brittany Drive northward. Given that this has not occurred in more than 15 years, it is not likely that any consolidation and northward extension of Brittany Drive is imminent.
- The Urban Planning Division does not believe the proposed development of a single-family dwelling on the subject property creates additional challenges or limitations on future planned and orderly development of the vacant lands to the north.

Lot Size and Compatibility

- Although the subject property's lot area of 4,591 square feet and lot width of 45 feet is less than any other lot on this block of Brittany Drive, there are several examples of lots that could be considered generally similar. These include:
    - 152 Brittany Drive – Lot area of 5,009 square feet; lot width of 50 feet;
    - 148 Brittany Drive – Lot area of 5,004 square feet; lot width of 50 feet;
    - 137 Brittany Drive – Lot area of 5,191 square feet; lot width of 51 feet;
    - 133 Brittany Drive – Lot area of 5,190 square feet; lot width of 51 feet.
- As such, the proposal will result in a new single-family dwelling constructed on a lot that is compatible with nearby residential properties on Brittany Drive in terms of lot area and lot width.
- It should be noted that the lot size of the subject property is considered unique among existing lots on this block of Brittany Drive, as it is smaller than other existing lots as a result of earlier subdivision. The Urban does not consider the smaller lot size of the subject property to be a new precedent for lot areas and lot widths should subdivision of lands to the north of the subject property occur in the future.

Public Works Department Comments

- As noted above, all relevant departments of the Winnipeg Public Service were circulated on the subject application and did not express any concerns. In particular, the Public Works Department did not note any concerns with permitting one (1) new single-family residential dwelling on this dead-end block of Brittany Drive.

RECOMMENDATION

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

- The proposal amendment will not limit or create additional challenges on the orderly future development on properties to the north;

- The opportunity to consolidate the subject property with adjacent properties to the north is unlikely to occur in the near future;
- The subject property is considered generally consistent with nearby properties on Brittany Drive containing single-family dwellings;
- The Public Works Department does not have concerns with the addition of a new single-family dwelling on this dead-end street.

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

PPD File #: ZAA 4/2020

Exhibit “8” referred to in File ZAA 4/2020

