Agenda - Council - October 27, 2004

Report - Standing Policy Committee on Property and Development - October 5, 2004

Item No. 11 Rezoning - 445 Egesz Street
File DAZ 250/2004

STANDING COMMITTEE RECOMMENDATION:

On October 20, 2004, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submits to Council that the application for rezoning under File DAZ 250/2004 not be proceeded with.

Report - Standing Policy Committee on Property and Development - October 5, 2004

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE:

On October 20, 2004, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 5, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 7, 2004, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 445 Egesz Street**
File DAZ 250/2004

For submission to: **The Standing Policy Committee on Property and Development**

Prepared by: **Diane Timmins, Clerk,**
Lord Selkirk-West Kildonan Community Committee

Report date: **September 21, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 7, 2004, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development that the application for rezoning under File DAZ 250/2004 not be proceeded with.

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reasons for its recommendation:

1. The Lord Selkirk-West Kildonan Community Committee agreed with the administrative comments contained in the report of the Manager of Planning and Land Use dated August 24, 2004.

2. The Lord Selkirk-West Kildonan Community Committee believed there would have been more opposition from the adjacent residential community had the zoning posters been placed in a more visible location.

PUBLIC HEARING SUMMARY

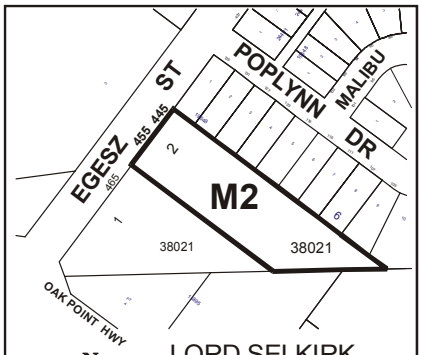
File: DAZ 250/2004

Before: Lord Selkirk-West Kildonan Community Committee
Councillor O'Shaughnessy, Chairperson
Councillor Lazarenko
Councillor Pagtakhan

Public Hearing: September 7, 2004

Applicant: Cadastra Management (Al Degner)

Subject:



LORD SELKIRK
WEST KILDONAN
COMMUNITY

APPLICANT : CADASTRA MANAGEMENT

FILE : DAZ 250/04

PROPOSAL : To rezone the land shown outlined above from an "M1" INDUSTRIAL DISTRICT to an "M2" INDUSTRIAL DISTRICT, and to amend or withdraw the existing Zoning Agreement affecting the subject land **For information, phone Mr. D. Marsh, Planner at 986-5549.**

Premises Affected: 445 Egesz Street

Exhibits Filed:

1. Application dated August 11, 2004
2. Notification of Public Hearing dated August 19, 2004
3. Manitoba Status of Title 1957296
4. Surveyor's Building Location Certificate and sketch dated December 18, 2002

5a. Letter of authorization dated August 10, 2004 from Wach Enterprises Ltd. to Pollock and Wright Land Surveyor

b. Letter of authorization dated August 26, 2004 from Pollock and Wright Land Surveyor to Cadastra Management

6. Extract of Atlas Sheet U19
7. Report from the Manager of Planning and Land Use dated August 24, 2004
8. Inspection Report
9. Photographs (3) of the subject property taken on September 7, 2004 submitted at the public hearing by Al Degner

REPRESENTATIONS:

In Support:

Albert G. Degner
William Kravetz
Ron Wach

In Opposition:

Scott Mondor
Clive Penwarden

For the City:

Mr. D. Marsh, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Albert Degner, appeared on behalf of the applicant, in support of the application. He indicated the rezoning application was necessary because of the restrictive uses of the current industrial "M1" zoning on the subject property and the City refusing to issue an occupancy permit to his client, to allow the blending and repackaging of paint on the premises. He informed Committee that his client, RKR Hesse Coatings, currently located on Paramount Road, is proposing to locate to the

subject property. Mr. Degner advised Committee he did not agree with the negative recommendation outlined in the report of the Manager of Planning and Land Use for the following reasons:

- The paint industry has been improving as there are more water based products on the market. Emissions from the blending of paints would only occur when products were being tested, and they would be vented on the south side of the building away from the residential properties.

- There are inconsistencies in the administrative report relative to the distance between the building where the paint operation would be carried out and the closest residences. In this connection, Mr. Degner was of the view the distance is more like 170 feet rather than 50 feet.

- There is sufficient room on the property for a fire truck to turn around once it drives in. In this connection, Mr. Degner submitted three (3) photographs of the subject property taken on September 7, 2004 and filed as Exhibit "9", and stated the opinion, these confirm the fact there is sufficient room on the property for a fire truck to enter and exit, in the event of an emergency. There is also a secondary access to the site to permit vehicles to enter and exit the subject property.

William Kravetz, also appearing in support of the application, advised Committee that he is the owner of the company proposing to relocate to the subject property. Mr. Kravetz gave background information relative to his company, which has been operating at 103 Paramount Road for twelve (12) years without any incidence of fire. Mr. Kravetz advised Committee of the following:

- He has been in the business since 1956 and safety has always been his company's objective. Believes he has the cleanest and safest operation in the industry

- A fire hydrant will be installed on the property and no vehicles will be allowed to park in the fire lane

- The distance between the buildings is 115 feet which would allow a fire truck to access the fire lane

- There will be no odour arising from the paint operation, as the building will have an exhaust system

- The wiring in the building will be replaced

- Mostly water based paint products will be used, and there will only be mixing of products on the premises; no boiling or vaporizing.

Clive Penwarden, appearing in opposition to the application, advised Committee that he purchased his property on Poplynn Drive in 1990, and that his property backs onto the subject

premises. He stated he was opposed to the proposed rezoning, which in his opinion, is incompatible with the surrounding residential neighbourhood. He expressed concern with the proposed development of the property and commented he did not feel it was necessary for the proposed business to relocate to the subject premises and that an alternative location should be found.

Scott Mondor, also appearing in opposition to the application, advised Committee that he also lived on Poplynn Drive and that his property is fifty-five (55) feet from the building. He stated he strongly agreed with the recommendation contained in the administrative report and did not agree with the statements made by Mr. Degner and Mr. Kravetz that, in the event of a fire, a fire truck could enter onto the subject property inasmuch as the property is cluttered with equipment. Mr. Mondor advised Committee that he is a painter by profession and expressed concern with respect to the emissions that would emanate from the mixing of paint on the subject property, and for the safety of his children with those emissions. He also stated concern regarding the noise that would result from delivery vehicles making deliveries to the proposed business. Mr. Mondor concluded that the proposed business would be better suited in an industrial park and should not be allowed to locate near a residential neighbourhood.

In rebuttal, Mr. Degner commented that although he sympathizes with Messrs. Penwarden and Mondor who reside next to the industrial property, he stated they would have known of the adjacent "M1" Light Industrial District when they purchased their homes inasmuch as the subject property was rezoned to an "M1" zoning classification in 1977, before they purchased their houses. Mr. Degner noted that the nearest residence is located approximately ninety (90) feet from the subject property. He also stated that the proposed business would be a quieter tenant as compared to other industrial uses permitted under the current "M1" zoning classification. Mr. Degner disputed the concerns regarding the inability of the Fire Department to access the site and stated the Fire Department is aware of what his client is proposing. He further commented the building must have been initially constructed with the concurrence of the Fire Commissioner, otherwise it would not have been approved for construction. With respect to the concerns raised about emissions, Mr. Degner stated that everything will be enclosed within the building, but that there may be emissions from the testing of paint in a lab room, none of which would be airborne. In summation, Mr. Degner stated this process would be no different than what occurs at a Home Depot store with the mixing of paints.

Exhibit "7" referred to in File DAZ 250/2004

In reply please refer to / Référence à rappeler :

Michael Robinson
(204) 986-3213
Fax / Téléc. : (204) 986-7524

File No. DAZ 250/04
Our c/f CP 300 (.338)

August 24, 2004

Ms. Diane Timmins, Community Clerk
Lord Selkirk – West Kildonan Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Timmins:

REZONING
445 Egesz Street
Lord Selkirk – West Kildonan Community Committee
File No. DAZ 250/04

An application has been received from Al Degner, to amend By-Law No. 6400/94 by rezoning the land shown below from a "M1" Industrial District to a "M2" Industrial District to allow for a use which involves the blending of paint on the premises.

RELATED FILES:



SITE DESCRIPTION:

Site Area, Existing Land Use, and Zoning:

The subject property is currently zoned "M1" Industrial District. It is adjacent to single-family residential to the north and a forklift rental and repair establishment to the south. There are two one story metal clad buildings on the site – both of which are currently being occupied by the forklift rental and repair operation. The southern most of the two buildings would house the proposed new business. The approximate size of the property is ±57,000 square feet

There is approximately 50 feet between the buildings on the subject property and the rear property line of the residences facing Poplynn Drive.

Surrounding Land Use and Zoning:

North: To the north are single-family homes zoned "R1-4A"
South: To the south is Oak Point Road and commercial businesses zoned "C3-2"
East: To the east are single-family homes zoned "R1-4A"
West: To the west are industrial properties zoned "M1"

DEVELOPMENT DESCRIPTION:

Overview

The proposed rezoning, from "M1" to "M2", is being requested so that a business establishment, RKR Hesse Coatings – currently located at 103 Paramount Road in Winnipeg, can locate to the premises. This firm, which currently has twelve employees, blends and repackages paint for the commercial market.

The business owner has stated that the hours of the facility would be 8:30am – 4:30pm, Monday through Friday, with the exception of one lab worker, who would be on site until 9:00pm. Approximately six pick-ups and/or deliveries would occur each week and approximately 95% of these would use single axle trucks.

The business owner has indicated that there are plans to grow the operation at the new facility. This may include up to 3-4 additional employees in the near term.

Details of the Proposed Use

The owner of the firm has stated that the business is involved in the blending of both solvent based and water born paints, which are then repackaged for customers. They do not boil or vaporize any products on the premises. There are several large, covered mixing containers where the paint is blended. In addition, there is small spraying room where samples are occasionally sprayed.

Emissions from the operation, which the owner stated are minimal, would be vented to the south side of the building, away from the residences.
In order to accommodate this operation, the building will need to be reclassified from an F2 to an F1 fire rating, which is reserved for buildings with the highest fire risk. Sprinklers will be installed and a new fire hydrant will be placed between the two buildings with a 6" water line coming in from the street. In addition, the Plan Examinations branch has indicated that it is likely that other costly improvements to the building for both fire protection and ventilation will be required.

Zoning

The proposed use falls under the following classification:

Paint, varnish, shellac, lacquer, or turpentine manufacturer

This use is permitted in the M2 and M3 zoning districts only.

In 1977, when this property was rezoned to an M1 Light Industrial District (DASZ 52/76), the Zoning By-Law existing at that time, 4450/86, allowed "compounding operations, packaging or handling, using previously prepared materials – including paint not employing the boiling process" as a permitted use in the M1 district. Subsequent to that, the city has reclassified and moved this type of use to the M2 district. With that, the original zoning agreement stated that there were no restrictions on the city's ability to rezone the property or to amend, repeal, or vary the Zoning By-Law applicable to the land. Thus, it is clear that current Zoning By-Law regulations are in force for this property.

PLAN WINNIPEG:
The subject property falls within a designated Industrial Policy Area under Plan Winnipeg, which allows for industrial and compatible commercial development.

ADMINISTRATIVE COMMENTS:
The petitioner is requesting a rezoning that will allow a use which involves the blending of paint. This use involves some emissions from the blending and spraying of paint as well as the storage of large drums of paint. While the owner has indicated that the risk of fire and/or explosion is minimal, the building department deems that there is a sufficient fire hazard to require a higher level of fire protection in the building.

The owner has stated that in his 12 years are the Paramount Road location, he has never received a complaint from the neighbours who live adjacent to the property. While this may be true, aerials show that the closest residences are currently ± 700 feet from his warehouse. At the new location, they would be only ± 50 feet away.

Further, while the petitioner has stated that he has never had a fire in his twelve years at the Paramount Road location and that he always strives to provide the highest level of safety at his operation, flammable materials, such as paint, are always a potential risk and an accident is within

the realm of possibility. With such a tight buffer zone between this facility and adjacent residences, an accident, such as a fire, is a heightened concern.

Besides the concerns about the increased risk of fire, the Fire Department has also indicated that they have serious concerns about accessibility to this building in case of fire. For instance, there is one narrow lane between the properties and very little room for a large fire truck to turn around once it drives in. Additionally, the entire drive aisle and open area in front of the building must be maintained as a fire lane in case of emergency – which conflicts with truck traffic and parking, which are expected to occur there, since existing access renders it awkward for employee parking (up to 14 cars) and deliveries/pick-ups to occur anywhere else on the site.

Finally, the city, as part of orderly planning and development of the community, has zoned many areas of the city M2, to allow for more intense, industrial development. These areas are typically located in locations which minimize potential dangers and negative outputs to residential neighbourhoods. M1 districts are typically less intense and have reduced potential dangers and negative outputs – which may be appropriate slightly closer or adjacent to residential areas – when proper screening and other preventative measures are taken. In some cases, M1 will act as a buffer between higher intensity uses, such as "M2" and residential areas. In this case, though, the reverse would occur – with the higher intensity zoning classification "M2" coming between "M1" and residential.

Recommendation:

With this in mind, the Planning and Land Use Division feels that the requested rezoning is not appropriate at this location for the above reasons. Therefore, the Planning and Land Use Division recommends that the application to rezone the subject parcel be denied.

Yours truly,

C. Knoll
Manager of Planning and Land Use

Per: Michael Robinson, Planner
986-3213

5114

By-Law No. _____

File No. **DAZ 250/04**

Atlas Sheet No. **U19**

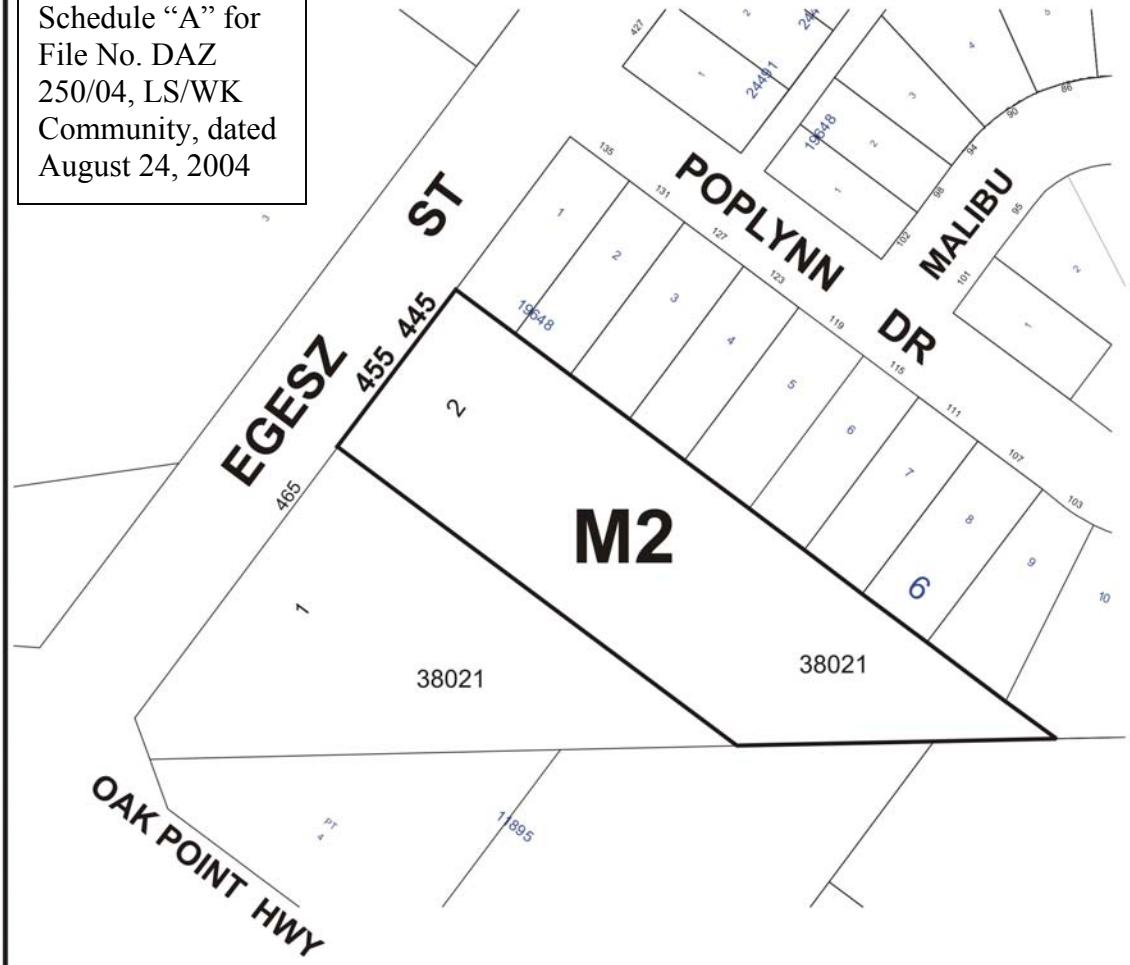
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LORD SELKIRK WEST KILDONAN COMMUNITY

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 445 Egesz Street from an "M1" INDUSTRIAL DISTRICT to an "M2" INDUSTRIAL DISTRICT as shown outlined below.

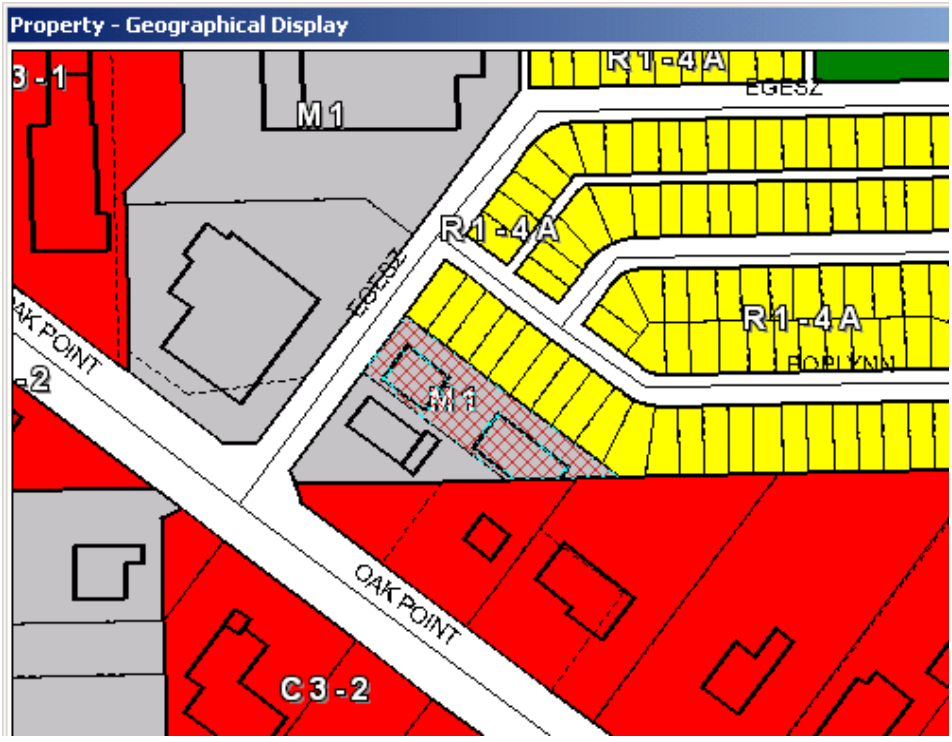
Schedule "A" for File No. DAZ 250/04, LS/WK Community, dated August 24, 2004



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____


POPLYNN
DR


Property - Geographical Display
M1
R1-4A
EGESZ
R1-4A
R1-4A
POPLYNN
M1
OAK POINT
OAK POINT
C3-2

5116