Minute No. 229
Report - Standing Policy Committee on Property and Development - February 1, 2005

Item No. 10 Zoning Agreement Amendment - 1295 and 1305 Leila Avenue
File ZAA 26/2004 (c/r DAZ 338/76)

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the Zoning Agreement under File DAZ 338/76 (By-law No. 1833/77) dated August 17, 1977, be amended as follows:

   A. Clause 9 be amended to read as follows:

      "9. In respect of all lots within the area of land described in clause one having a frontage or flankage on Leila Avenue, the required front or side yard as the case may be shall be measured from a point fifty (50) feet north of the northern limit of Leila Avenue as same is shown on Plan 3851, except Lot One which shall have a setback of nine point nine one (9.91) feet north of the northern limit of Leila Avenue".

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 338/76 (By-law No. 1833/77), dated August 17, 1977, 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 City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report - Standing Policy Committee on Property and Development - February 1, 2005

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 16, 2005, 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 February 1, 2005, 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 January 11, 2005, 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: **Zoning Agreement Amendment - 1295 and 1305 Leila Avenue**
File ZAA 26/2004

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

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

Report date: **January 24, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On January 11, 2005, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement DAZ 338/76 (By-Law No. 1833/77) dated August 17, 1977, be amended as follows:

   A. Clause 9 be amended to read as follows:

      "9. In respect of all lots within the area of land described in clause one having a frontage or flankage on Leila Avenue, the required front or side yard as the case may be shall be measured from a point fifty (50) feet north of the northern limit of Leila Avenue as same is shown on Plan 3851, except Lot One which shall have a setback of nine point nine one (9.91) feet north of the northern limit of Leila Avenue".

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 338/76 (By-Law No. 1833/77), dated August 17, 1977, as approved in aforesaid Clause 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the City Solicitor/Manager of Legal Services 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 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 December 29, 2004.

PUBLIC HEARING SUMMARY

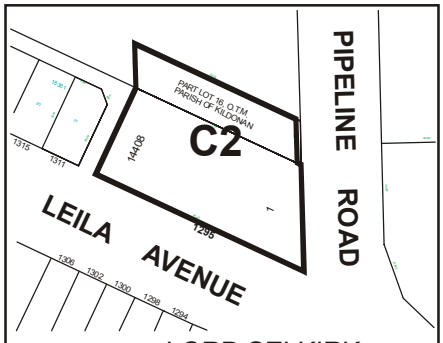
File: ZAA 26/2004

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

Public Hearing: January 11, 2005
Council Chamber, Council Building
510 Main Street

Applicant: Director of Planning, Property and Development

Subject:



LORD SELKIRK WEST KILDONAN COMMUNITY

APPLICANT : DIRECTOR OF PLANNING, PROPERTY AND DEVELOPMENT

FILE : ZAA 26/04

PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above to permit a setback of 9.91 feet from the northern limit of Leila Avenue as shown on Plan No. 3851, instead of 50 feet as required by the Agreement. **For information, phone Mr. D. Marsh, Planner at 986-5549.**

Premises Affected: 1295 and 1305 Leila Avenue

Exhibits Filed:

1. Application dated December 14, 2004
2. Notification of Public Hearing dated December 15, 2004
3. Manitoba Status of Title 1966654
4. Site and Elevation Plans (2 pages)
5. Letter of authorization dated December 14, 2004 from Dr. Brian Friesen to the City of Winnipeg
6. Report from the Manager of Planning and Land Use dated December 29, 2004
7. Inspection Report

REPRESENTATIONS:

In Support:
Nil

In Opposition:
Nil

For Information:
Nil

For the City:
Mr. D. Marsh, Planner, Planning, Property and Development Department
Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING

No persons registered with respect to the application.

Exhibit "6" referred to in File ZAA 26/2004

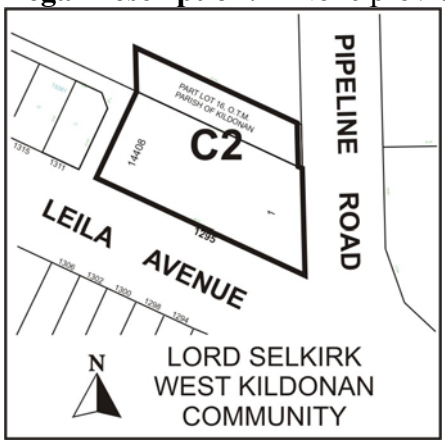
Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk – West Kildonan Community Committee

Date: December 29th, 2004
File: ZAA 26/04
Related Files: DAV 04-326380C
Subject: To amend Zoning Agreement DAZ 338/76 (By-Law No. 1833/77) affecting the land shown below to permit a setback of nine point nine one (9.91) feet from the northern limit of Leila Avenue, instead of the fifty (50) feet as required by the agreement.

Location: 1295 Leila Avenue
Legal Description: None provided.



Applicant: City of Winnipeg, Planning, Property & Development
Owner: Brian Neil Friesen Dental Corporation

Recommendation: Approval

Report Summary:

- A variance for a nine point nine one (9.91) foot setback had been previously approved for this site (see DAV 04-326380C). The Department in error did not note the provisions of the existing zoning agreement in regards to additional setbacks along Leila Avenue
- A zoning agreement amendment has been applied for by the City of Winnipeg Planning, Property, and Development Department to correct this oversight

Site Description

Existing Land Use and Zoning:

The site is currently zoned 'C2' Commercial, and is occupied by an approximately 4,200 square foot commercial building and a forty (40) vehicle parking area. An additional building of 3,400 square feet and expand the existing parking area by an additional twenty (20) spaces was approved under DAV 04-326380C, and development permits are pending issuance. The site is approximately 50,900 square feet (1.17 acres) in size.

Surrounding Land Use and Zoning:

North: Multi-family residential (RM-3), then detached residential buildings (R1-5)
South: Leila Avenue, detached residential buildings (R1-4)
East: Pipeline Road, then vacant land (R1-20 & C-2)
West: A public lane, then detached residential (R-2 & R1-4) and multi-family residential buildings (RM-3)



Aerial of Subject Site and Surrounding Properties (2002)

Background

A variance for a reduced rear building setback of ten (10) feet instead of the twenty-five (25) feet required by City of Winnipeg Zoning By-Law No. 6400/94 was approved on October 13th, 2004 by the Board of Adjustment (see related file DAV 04-326380C). During the review of the proposed variance, it was noted that the proposed building location did comply with the By-Law No. 6400/94 setback regulations off of Leila Avenue; however, both the Zoning & Permits Division and Planning & Land Use Division failed to note the additional setback requirements on the site under Zoning Agreement DAZ 338/76 (By-Law No. 1833/77). The zoning agreement requires an additional setback of fifty (50) feet off of Leila Avenue, which is in excess of the zero (0) feet required by By-Law No. 6400/94. The site plan submitted by the developer at that time indicated a setback of nine feet eleven inches (9'11") to conform with an existing hydro easement. Both the proposed building and the existing building approved per Schedule "A" approval on-site do not comply with the setback requirement of the zoning agreement.

Description of the Proposed Development

The City of Winnipeg Planning, Property, and Development Department has applied on the owner's behalf to amend the zoning agreement to reduce the setback requirement for this parcel from fifty (50) feet to nine point nine one (9.91) feet from the north side of Leila Avenue. This

will permit the owner to develop the proposed second building in accordance with the site plan proposed under DAV 04-326380C, and bring the existing building on-site into compliance.

Analysis

The Planning & Land Use Division has no objections to the proposed amendment to the zoning agreement. The proposed setback is consistent with the existing building on-site, and is consistent with the plans proposed under DAV 04-326380C. During the review process and hearing for the proposed setback variance, no members of the public expressed concern or opposition. In addition, the proposed setback reduction under the amendment will not adversely impact surrounding properties, and will maintain previously approved setbacks in relation to the adjacent public lane and existing residential properties to the west.

Plan Winnipeg Compliance:

The subject parcels fall with a designated Neighbourhood Policy Area under Plan Winnipeg which allows for a variety of residential, commercial, institutional, and mixed uses; thus, the proposed zoning agreement amendment is in conformance with Plan Winnipeg 2020.

Recommendation

The Planning and Land Use Division recommend approval for the following reasons:

- The proposed zoning agreement amendment is consistent with Plan Winnipeg and any applicable secondary plan;
- The proposed zoning agreement amendment is compatible with the surrounding properties;
- The proposed zoning agreement amendment will not have an adverse effect on surrounding properties or an area as a whole.

Recommended Conditions of Approval

1. That the Zoning Agreement DAZ 338/76 (By-Law No. 1833/77), dated August 17, 1977, be amended Clause 9 to read as follows: "In respect of all lots within the area of land described in clause one having a frontage or flankage on Leila Avenue, the required front or side yard as the case may be shall be measured from a point fifty (50) feet north of the northern limit of Leila Avenue as same is shown on Plan 3851, except Lot One which shall have a setback of nine point nine one (9.91) feet north of the northern limit of Leila Avenue".

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3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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

Report Prepared by: David Marsh AICP, Planner
PPD File # 3.337