Minute No. 299
Report - Standing Policy Committee on Property and Development - March 7, 2005

Item No. 18 Zoning Agreement Amendment - 1440 McPhillips Street
File ZAA 1/2005 [c/r DAZ 299/78]

COUNCIL DECISION:

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

1. That Zoning Agreement Caveat No. 265158 under File DAZ 299/78 dated August 15, 1979, (By-law No. 2430/79) be amended by striking Clause No. 2 for the subject property.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 299/78 (By-law No. 2430/79) dated August 15, 1979, as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City be 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 - March 7, 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 March 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 March 7, 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 February 22, 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 - 1440 McPhillips Street**
File ZAA 1/2005 [c/r DCU 109684/2005D]

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

Prepared by: **Josie Marques, Clerk,**
Lord Selkirk-West Kildonan Community Committee

Report date: **February 24, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 22 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 Caveat No. 265158 under File DAZ 299/78, dated August 15, 1979, (By-law No. 2430/79), be amended by striking Clause No. 2 for the subject property.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 299/78 (By-law No. 2430/79), dated August 15, 1979, as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City be 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(s) for its recommendation:

1. The Lord Selkirk-West Kildonan Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated February 15, 2005

PUBLIC HEARING SUMMARY

File: ZAA 1/2005 [c/r DCU 109684/2005D]

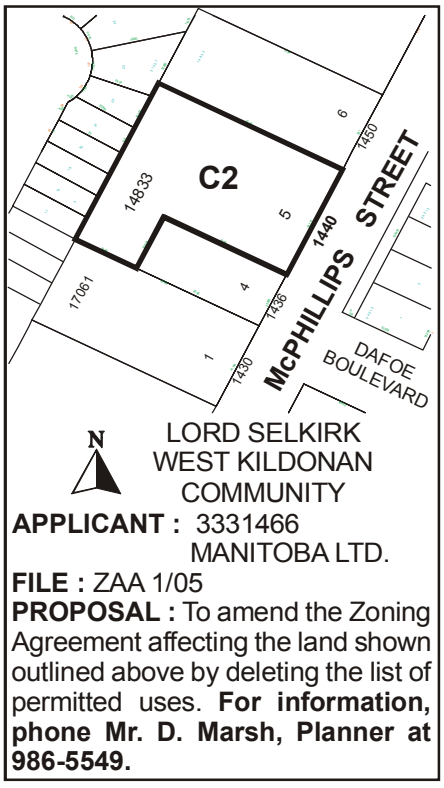
Before: Lord Selkirk-West Kildonan Community Committee
Councillor Lazarenko, Chairperson
Councillor O'Shaughnessy
Councillor Pagtakhan

Public Hearing: February 22, 2005
West Committee Room, Council Building
510 Main Street

File: ZAA 1/2005 [c/r DCU 109684/2005D]

Applicant: 3331466 Manitoba Ltd.
(George and Leo Groumoutis)

Subject:



Premises Affected: 1440 McPhillips Street

Exhibits Filed:

1. Application dated January 21, 2005
2. Notification of Public Hearing dated January 27, 2005
3. Manitoba Status of Title 1637469
4. Surveyor's Building Location Certificate and sketch undated
5. Plans (2 pages)
6. Report from the Manager of Planning and Land Use dated February 15, 2005
7. Inspection Report

REPRESENTATIONS:

In Support:

Said Ahmadi
George Groumoutis
K. Kais
Satwani Sidhu

In Opposition

Nil

For the City:

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

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant George Groumoutis, 3331466 Manitoba Ltd., appeared in support of the application and indicated concurrence in the recommendations contained in the administrative report from the Manager of Planning and Land Use dated February 15, 2005.

Exhibit "7" referred to in File ZAA 1/2005 [c/r DCU 109684/2005D]

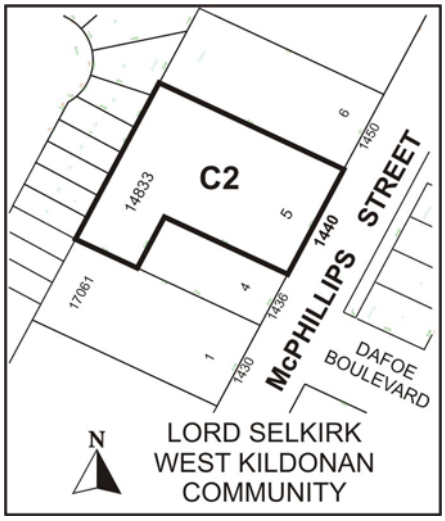
Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk – West Kildonan Community Committee

Date: February 15th, 2005
File: ZAA 1/05
Related Files: DCU 05-109684D
Subject: Application to Amend Zoning Agreement DAZ 299/78 by deleting Clause No. 2 governing restrictions on land use to allow those uses normally permitted under a "C-2" Commercial district.

Location: 1440 McPhillips Street
Legal Description: Lot 5 Plan 14833 WLTO in OTM Lots 5 & 6 Parish of Kildonan



Applicant: 3331466 Manitoba Ltd. (George & Leo Groumoutis)
Owner: Same

Recommendation: Approval

Report Summary:

- The zoning agreement amendment will allow for commercial development to occur on site based on the regulations of the underlying "C2" Commercial District zoning;
- The proposed zoning agreement amendment is in compliance with Plan Winnipeg and its policies;
- 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.

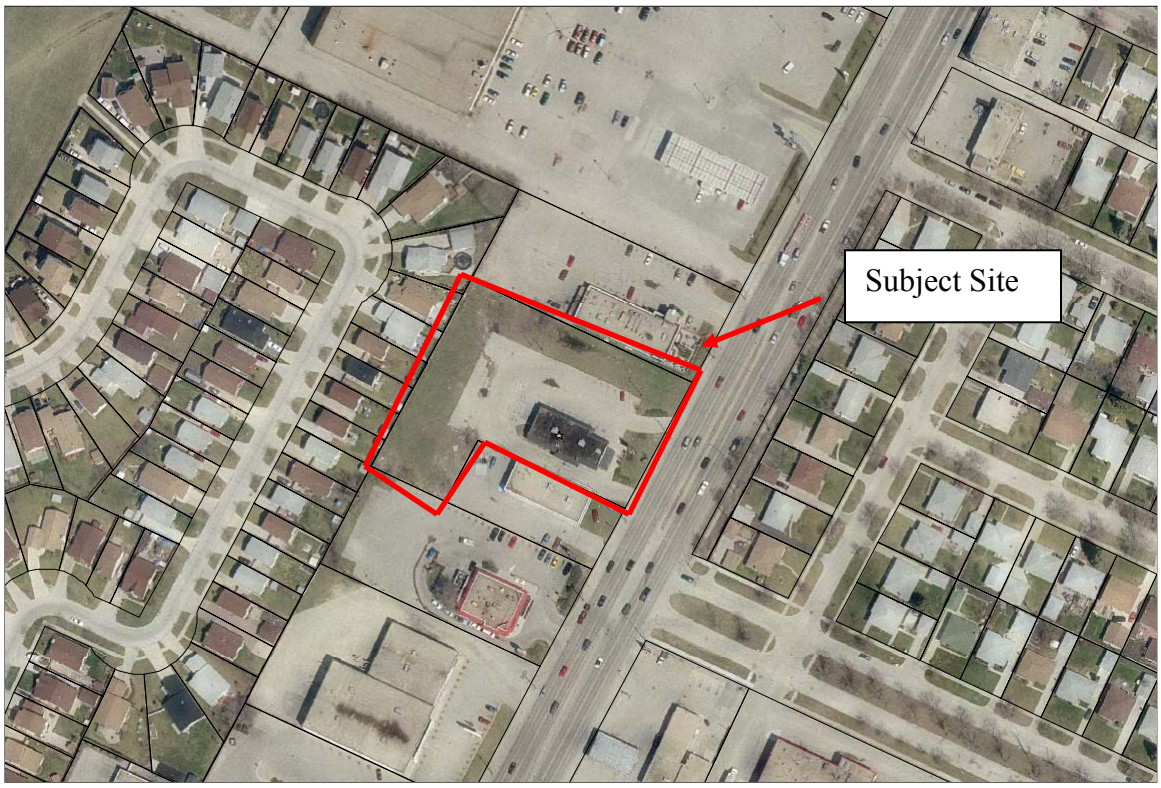
Site Description

Existing Land Use and Zoning:

The site is currently occupied by a vacant commercial building, and is approximately 63,000 square feet (1.45 acres) in size. The existing site is zoned "C2" Commercial with a zoning agreement restricting the uses to those permitted in a "C1" Commercial district.

Surrounding Land Use and Zoning:

North: Commercial buildings (C2)
South: Commercial buildings (C2)
East: McPhillips St, then detached residential buildings (R1-5.5)
West: Detached residential buildings (R1-3.5)



Aerial of Subject Site and Surrounding Properties

Background

The site was rezoned to "C2" Commercial in 1979 (see file DAZ 299/78), but is restricted in terms of land use to those uses normally permitted in a "C1" Commercial District and several others under Clause No. 2 of the zoning agreement. The existing former Arby's restaurant building on-site has been vacant for over twelve months, and thus has lost any non-conforming rights that existed prior to the rezoning of the site in 1979.

Description of the Proposed Development

The applicant is proposing to amend the existing zoning agreement (By-Law No. 2430/74) by deleting Clause No. 2, which restricts uses on the site to those permitted under a "C1" Commercial District and several others. Deleting Clause No. 2 would permit on site those uses normally permitted under a "C2" Commercial District, which is the underlying zoning on this property. The applicant is proposing to establish a restaurant in excess of 2,500 square feet within the existing building, which normally requires a Conditional Use permit under a "C2" Commercial District, but is not permitted under the restrictions of Clause No. 2 of the zoning agreement.

The applicant has also applied for a conditional use to permit the establishment of the restaurant concurrently with this application (see related file DCU 05-109684D).The restaurant will occupy the existing 3,800 square foot building, will feature a buffet and dining area, a cocktail lounge area, and a drive-through window.

Analysis

The Planning & Land Use Division has no objections to the proposed zoning agreement amendment. The zoning agreement amendment will in essence will allow for commercial development in accordance with the underlying "C2" Commercial District regulations, and permit the re-establishment of a restaurant on-site. The commercial development on site has been in existence for some time, and is compatible with the surrounding land uses.

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 in compliance with Plan Winnipeg and its policies;
- 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

I. That the Zoning Agreement Caveat No. 265158 under file no. DAZ 299/78, dated 15 August 1979, (By-Law No. 2430/79), be amended by striking Clause No. 2 for the subject property.

II. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 299/78 (By-Law No. 2430/79), dated 15 August 1979, as approved in aforesaid Clause I.

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

IV. 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 # 3.320