

INLAND PORT SPECIAL PLANNING AUTHORITY

REPORT AND RECOMMENDATION

Recommendation Date: May 6, 2016

File No.: 13-2-002-2016-0050

MATTER: Zoning By-law Amendment

BY-LAW NO.: 1-16

HEARING DATE: May 6, 2016, Winnipeg

PANEL: Frances Smee, Chair
Serge Scrafield, Co-Chair
Kelvin Stewart, Member
Marina James, Member
Braden Smith, City nominee

PARTIES AND APPEARANCES: *for the applicant*

Kate Hall, CentrePort Canada

for Community and Regional Planning Branch

Meagan Boles, Senior Planner, CentrePort

presenters

Jason Phillips, BroadGrain Commodities (written submission)

Chris Barsanti (written submission)

Shanna Chan

Brent Burley (represented by Shanna Chan)

Keith Ryan

INTRODUCTION

The intent of this application is to re-zone +/- 32.78 acres of part of Sections 20, 21, 29 and 30-11-E from CentrePort Rural Zone to "I3" Industrial Heavy Zone to establish a heavy industrial use, being a high through-put grain elevator, bean processing (sorting) facility and associated rail infrastructure. The proposal is to accommodate the establishment of BroadGrain Commodities on site. BroadGrain Commodities would be the anchor tenant for the CentrePort Canada Rail Park.

ISSUE AND LEGISLATION

The issue before the Board is to make a recommendation to the minister to approve the proposed re-zoning, with or without conditions or reject the proposed re-zoning.

Section 12.2(1)(a) of the *The Planning Act* states that the mandate of a special planning authority, in respect of its special planning area, is to hold hearings to consider, among other things, an amendment to a zoning by-law.

Section 12.2(2) of the *The Planning Act* states that after holding a hearing on a matter set out in (1)(a), the special planning authority must provide the minister with a report on the hearing that includes the minutes of the hearing, the record of all representations made at the hearing and its recommendations on the matter considered at the hearing.

Section 12.2(5) of *The Planning Act* states that in carrying out its mandate, a special planning authority is to act in accordance with the regulations, being the *Special Planning Areas Regulation 49/2016* and the *Inland Port Special Planning Areas Regulation 48/2016*, being the Development Plan and Zoning By-law for the Inland Port Special Planning Area.

PUBLIC PRESENTATIONS

Meagan Boles, Senior Planner from the Community and Regional Planning Branch presented the planning report. Kate Hall from CentrePort Canada Inc. spoke on behalf of the applicant. Meagan Boles read written submissions received from Jason Philips (BroadGrain Commodities) and Chris Barsanti (Rosser resident). Area landowners, Shanna Chan (also on behalf of Brent Burley) and Keith Ryan spoke in objection to the proposed development.

Community and Regional Planning Branch:

Meagan Boles, Senior Planner presented the planning report. She confirms that the area proposed for re-zoning is designated Rail Serviced Industrial according to the Development Plan. Policies within the designation support development of uses that will benefit from direct rail service. She states the proposed re-zoning is compatible with the objectives and policies of the Rail Serviced Industrial designation. The land use proposed in the application is considered a heavy industrial use and is permitted in the proposed zone. A site plan has been provided by the developer and it appears that most of the bulk requirements of the zone have been met, except that any access road to the site must be at least 60 metres from the corner of the lot. It is recommended that the westerly site access be moved to meet this requirement.

Ms. Boles stated that either side of Omand's Creek is designated as Open Space according to the Development Plan. Omand's Creek and this Open Space designation bisect the area to be re-zoned at its eastern edge. The purpose of the Open Space designation is to preserve the natural character of existing open spaces and where possible, to incorporate active transportation corridors adjacent to local creeks. Due to safety risks associated with an active transportation corridor within a rail park, it is not appropriate to develop an active transportation corridor at this location. However, the natural features of the area of Omand's Creek should be preserved. The zoning by-law also requires that the developer

meet a minimum of five Sustainable Development Measures. The developer's proposal to meet these requirements is recommended as a condition of approval.

Urban Design and Landscaping policies for Rail Serviced Industrial lands state native plantings are encouraged and parking lots should be designed and managed to reduce velocity and flow of stormwater, as well as pollutant discharges. In the Rail Serviced Industrial designation, street trees may be present on the perimeter streets to spatially define and buffer those streets from other uses while accommodating the needs and safety requirements of large service and delivery vehicles. It is recommended that the Development Agreement address landscaping requirements within the BroadGrain building site alongside PR 221 (Rosser Road).

Ms. Boles states that the application went through a technical review. There were no major concerns with the application, although Rosser did request a risk assessment be conducted for residential uses within one mile. MTS Inc. requires an easement and Manitoba Sustainable Development stated a license under *The Environment Act* may be required for the bean processing plant portion of the development.

In Support of the Application:

Kate Hall (CentrePort Canada Inc.) read a letter in support of the application. Ms. Hall stated that BroadGrain is the anchor tenant for the CentrePort Canada Rail Park and the development will provide new marketing opportunities for Manitoba agricultural producers and benefit the local community by creating new jobs and generating new tax revenue for Rosser.

Meagan Boles read a letter from Jason Philips of BroadGrain Commodities Inc. in support of the application. Mr. Philips states in his letter that the re-zoning is critical for BroadGrain's planned \$25 million investment in Manitoba.

Meagan Boles read a copy of an email from Chris Barsanti in support of the proposal. Mr. Barsanti generally supports the development but did raise concern with the closure of PR 221.

In Objection to the Application:

Shanna Chan read a letter in objection to the application which raised concerns about the following: safety with respect to the uncontrolled rail line crossings close to her residence and noise, vibration and pollution from train traffic. Ms. Chan requested a risk assessment be conducted prior to proceeding with the re-zoning.

Shanna Chan read a letter on behalf of Brent Burley in objection to the application which raised concerns about the incompatibility of a heavy industrial use close to a residential use, the impact on his property value, noise and safety. Mr. Burley also requested a risk assessment be conducted.

Other Representation:

Keith Ryan stated he was generally in favour of the proposal but questioned why the location of the site was chosen as there is lots of available property closer to the airport. Mr. Ryan also raised concern with the closure of PR 221 and access for farmers to continue cropping.

ANALYSIS AND CONCLUSION

The Board has carefully considered the evidence presented at the hearing.

The closure of PR 221 is not an issue for the Board to critique. While the Inland Port Special Planning Authority carries responsibilities related to land use planning, road closures are within the jurisdictional responsibility of Manitoba Infrastructure pursuant to *The Highways and Transportation Act*. The closure is a necessary step in establishing the CentrePort Canada rail park. The road is being closed because

the area will be overlain by rail tracks. Provincial Trunk Highways 190 and 7 are alternative routes for traffic between the RM of Rosser and the northwest area of the City of Winnipeg. To inform Manitobans of the department's road system plans, Manitoba Infrastructure held a public information session in November 2015 and communicated their road plans to the public on their website.

The Board noted that of particular concern for local residents seems to be the increased rail traffic, not the particular use or building structures proposed on site. The residential parcel most impacted is adjacent to the main CP line on the north side of PR 221. Although the proposed rail line will connect with the main CP line on the west side of the impacted residential parcel, there will not be increased traffic on the main CP line closest to the residential use. The increased traffic will largely be south of PR 221 and part of the nature of a rail park.

During the technical review of the application, Rosser requested a risk assessment be conducted due to the fact there are residences within 1 mile of the subject property. Local residents also requested a risk assessment. The Board considered the *Inland Port Special Planning Area Regulation 48/2016* which states that no new industrial structures can be established within 500 feet of an existing residence. This setback was established as a means to protect existing rural residents. The proposal meets this requirement. The Board further discussed that if a license under *The Environment Act* were required, the applicant has to complete a detailed risk assessment, including describing the existing environment in the project area, providing a description of environmental and human health effects of the proposed development, proposing mitigation measures and follow-up plans, including monitoring and reporting. The Board determined they would not supersede *The Environment Act* requirements and were satisfied that if license is determined to be necessary under *The Environment Act*, the requirement of a risk assessment would be addressed through that process.

In accordance with Section 1.3 Environmental Protection of the *Inland Port Special Planning Area Regulation 48/2016*, Policy 1.3.2.5 states that proposed development that will impact a natural feature or heritage resource must be supported by a natural resource management plan. As the easterly edge of the proposed development bisects Omand's Creek, the Board recommends the applicant provide evidence a natural resource management plan has been completed with the intent to preserve the natural features of the area of Omand's Creek.

There is no dispute that the proposed re-zoning is in keeping with the Development Plan. The establishment of the use on site is clearly rail related and appropriate to establish in the Rail Serviced Industrial designation.

THEREFORE, THE BOARD RECOMMENDS

That the minister approves the re-zoning application, subject to the following conditions:

1. Confirmation that an easement has been obtained and an Easement Agreement has been entered into with MTS Inc. The applicant will be required to register the agreement on title.
2. Confirmation from Manitoba Sustainable Development's Environmental Approvals Branch that a license under *The Environment Act* has either been obtained or is not required.
3. That the Development Agreement being entered into for the subdivision also reflect the requirement for perimeter trees (landscaping) to define the street while accommodating the needs and safety requirements of large vehicles. This would apply only to the building site and alongside PR 221 (Rosser Road).
4. Confirmation that the westerly access to the building site is moved to meet the parking access setback of 60 feet from the corner of the lot.
5. That the developer submits their proposal to meet the minimum of five Sustainable Development Measures outlined in the Zoning By-law.

6. Provide evidence that a natural resource plan has been provided to address where the rail line crosses Omand's Creek.

Submitted by:

Frances Smee
Chair, Inland Port Special Planning Authority

Attachments

c.: CentrePort Canada Inc., applicant