

# INLAND PORT SPECIAL PLANNING AUTHORITY

## REPORT AND RECOMMENDATION

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Recommendation Date: June 8, 2016

File No.: 13-2-002-2016-0076

**MATTER:** Zoning By-law Amendment

**BY-LAW NO.:** 2-16

**HEARING DATE:** June 1, 2016, Winnipeg

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

**PARTIES AND APPEARANCES:** *for the applicant*

Derrick Weiss

*for Community and Regional Planning Branch*

Meagan Boles, Senior Planner, CentrePort

*presenters*

Shirley Preteau  
Jordan Lobe  
Robert Sigfusson  
Jay Barbosa-Meyer

## **INTRODUCTION**

The intent of this application is to re-zone two existing parcels totalling +/- 2.41 acres and legally described as part of the E ½ of Section 28-11-2E from Inland Port Rural Zone to “I2” Industrial General Zone to establish parking for highway tractors, trailers, roll off garbage bins and a service shop that will be used for the business directly (not the general public). There is an existing residence (1000 sq.ft.), a four car garage (1632 sq.ft.) and a shop (2400 sq.ft.) currently on site. There are no new structures or additions proposed as part of the application.

## **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. Derrick Weiss, the applicant spoke in favour of the application and Shirley Preteau, Jordan Lobe, Robert Sigfussion and Jay Barbosa-Meyer spoke in objection to or with concern for the proposed development.

### **Community and Regional Planning Branch:**

Meagan Boles, Senior Planner presented the planning report. She confirms the area proposed for re-zoning is designated Manufacturing and Logistics Industrial according to the Development Plan. Policies within this designation support development of heavier industrial uses, including those that accommodate large-scale vehicles and those that may generate higher levels of nuisance. “I2” Industrial General type uses are permissible in this designation.

The proposed zone is “I2” Industrial General Zone. Land uses within this zone are to be oriented towards industrial uses, including manufacturing and distribution uses with substantial large cargo truck activity and high cube warehouses. Parking, general industry and warehousing/storage are all permitted uses within this zone.

Ms. Boles stated that adjacent uses include Little Mountain Sportsplex to the north and rural residential properties to the south. Multiple policies within the Development Plan encourage screening and separation of land uses, including fencing, earth berms and/or vegetation. Ms. Boles further stated the existing lot is well treed, with a shelter belt on the north, south and west sides of the property as well as some tree coverage on the east side facing Klimpke Road.

The Zoning By-law requires that any new industrial building must be separated from any existing residential building by 61 m. (200 ft.) in the Industrial General Zone. There are no new industrial buildings proposed but the existing residence located on the neighbouring property to the south will limit placement of any new industrial buildings on the site. Ms. Boles noted this raises concern as the re-zoning will be turning the existing buildings into a new industrial use within the 200 ft. separation distance that is established in the Zoning By-law. This separation distance was established to protect existing residences.

Klimpke Road is identified as an Expressway as it will be the future extension of CentrePort Canada Way (CCW) where it will meet up with the extension of Chief Peguis Trail. Exact routing is yet to be determined but it will impact the site in some manner. Ms. Boles noted that additional comments on the application were received on June 1 from Manitoba Infrastructure which stated the department would not object to the re-zoning provided no new buildings are erected and the residence is no longer used for residential use.

During the technical review of the application, Rosser requested the development agreement address drainage on site, lot grading, approach upgrades, road maintenance such as dust control and the application of the Capital Lot Levy By-law.

Ms. Boles stated that several variances may be necessary in order for the proposal to conform to the site requirements outlined in the Zoning By-law. Some of these can be addressed by the consolidation of the two existing parcels. To address other requirements, it is recommended that the applicant confirm by means of a Building Location Certificate (or other acceptable method) that the side yard setbacks are met. If they are not met, a variance must be obtained. Ms. Boles also recommended as a condition that the developer submit their proposal for meeting the Sustainable Development Measures. In this case, it may be difficult for the applicant to meet the Sustainable Development Measures due to the use of an existing site and existing buildings. If the applicant cannot meet the five Sustainable Development Measures, a variance would have to be obtained.

#### **In Support of the Application:**

Derrick Weiss spoke in support of the application. Mr. Weiss owns a business close by and requires additional storage for his fleet of vehicles, including trucks, trailers and roll off recycling bins. Mr. Weiss clarified that no additional buildings or major renovations are planned for the site and that he plans to clean up the site. He also indicated that the recycling bins would be empty and stated that no repairs would be done on site.

#### **In Objection to the Application:**

Shirley Preteau lives on the property south adjacent to the subject property and spoke in objection to the application and raised concerns that the lot is currently poorly maintained. She also requested a fence be installed as there are not enough trees (particularly in the winter). Ms. Preteau raised concerns with the condition of Klimpke Road and that the additional traffic from the use will make it worse.

Jordan Lobe expressed concerns about increased traffic on an already busy road and the fact there are no current plans for upgrades. Mr. Lobe also expressed concern about sound and noted a fence may be beneficial.

Robert Sigfusson lives on the property north adjacent to the subject property and stated that Klimpke Road needs resurfacing. Mr. Sigfusson stated that presently, the property is not well kept. He also noted that sporting activities are occurring at Little Mountain Sportsplex and that the proposed use is not a good fit with the adjacent land use. He also expressed concern that the re-zoning would be opening the door to expanded industrial uses.

Jay Barbosa-Meyer stated that Klimpke Road is terrible and that it does not make sense to re-zone the subject property until it is known what is happening with the alignment of CentrePort Canada Way.

## **ANALYSIS AND CONCLUSION**

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

The Board acknowledges the subject property is currently in poor condition and not well kept. It is likely that the new owner, Mr. Weiss will take better care of the property and Mr. Weiss stated that he plans to clean up the property.

The Board considered the representation at the hearing made with respect to increased traffic on Klimpke Road. The Board noted there is significant traffic on the road, mainly from existing uses, including Little Mountain Sportsplex and Little Mountain Park. It is not expected, based on the details provided by the applicant that the increased traffic from the proposed use would be significant; however, the Board acknowledged the concerns raised at the hearing. The only manner in which the Board would be able to control traffic on Klimpke with respect to this development proposal would be to limit the amount of outdoor parking areas on the subject site. Considering the number and type of vehicles/bins the applicant has requested to store on site, and considering that a reasonable expansion to the business should not be prevented, the Board determined that outdoor parking areas shall be limited to a maximum site coverage of 40%. The outdoor parking areas shall also be oriented towards the rear of the property to help maintain a separation distance between the existing residence and the outdoor parking areas.

The Board acknowledged concerns about fencing raised by several people who made representation at the hearing. The applicant indicated that a fence would be put up surrounding the outdoor parking area. The Board decided to clarify, as a condition that lot edge buffering shall apply to the whole property and shall be in keeping with Option 2 of Section 25.2 of Schedule B of the *Inland Port Special Planning Area Regulation 48/2016*. This will essentially require an opaque wall, berm, fence or dense vegetative screen with a minimum combined height of 1.8 m (6 ft).

The Board discussed the future extension of CentrePort Canada Way and acknowledged that while the exact location of the road right-of-way is yet to be determined, it is inevitable that it will impact the site proposed for re-zoning in some manner. There is no point in requiring the applicant provide road right-of-way or public reserve at this time as the exact location of the road is unknown. The Board determined that it is prudent to prohibit the establishment of any new structures on site so that the location of structures and increased assessment does not impact land that may need to be expropriated in the future. As the applicant indicated he has no plans to establish any structures on site, the Board feels this is a reasonable condition.

The Zoning By-law requires that any new industrial building be separated from any existing residential building by 61 m. (200 ft.) in the Industrial General Zone. There will be no new industrial buildings on site; however the existing residence is essentially changing to a new use and is located within the separation distance required from the residence on the neighbouring property to the south. The Board acknowledged that it would be difficult to control the use of the existing residence once the site is being utilized for industrial uses. For this reason, the Board recommends that the existing residence be removed. This will prevent the uncontrolled utilization of the residence for industrial uses within the separation distance required from the residence on the south adjacent property. It will also prevent the use of the building as a residence, which is not permitted in the "I2" Industrial General Zone.

The Board agrees that the application is generally in keeping with the *Inland Port Special Planning Area Regulation 48/2016*. Due to the unknown location of the extension of CentrePort Canada Way, the Board recognizes that this is likely a somewhat interim use for this land as the construction of a new expressway in the area will impact the use of this parcel in the future. From that perspective, and given the conditions the Board is recommending, there seems no need to prevent the proposed use.

## **THEREFORE, THE BOARD RECOMMENDS**

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

1. That a site plan be provided by the proponent, and approved by the Senior Planner, CentrePort, that illustrates:
  - a) Outdoor parking areas, to be limited to a maximum site coverage of 40% and oriented towards the rear of the property;
  - b) Lot edge buffering of the property as detailed in Option 2 of Section 25.2 of Schedule B of the *Inland Port Special Planning Area Regulation 48/2016*.
2. That a Development Agreement be entered into with the RM of Rosser that will address, but not be limited to, drainage, lot grading, approach upgrades, road maintenance such as dust control and the application of the Capital Lot Levy By-law. The Development Agreement will also:
  - a) Address the removal of the existing residence;
  - b) Prohibit the establishment of any new structures on site;
  - c) Restrict outdoor parking areas to a maximum site coverage of 40% and orient the outdoor parking areas towards the rear of the property (both as per the approved site plan);
  - d) Address the establishment of lot edge buffering of the property as detailed in Option 2 of Section 25.2 of Schedule B of the *Inland Port Special Planning Area Regulation 48/2016* and as approved in the site plan.

*Note: Restrictions on the establishment of any new structures on site and outdoor parking areas shall survive until such time as CentrePort Canada Way is established in the area.*

3. That the two existing titles have been consolidated to a single title.
4. That the existing buildings meet the zoning requirements, and if they do not, that a variance has been obtained.
5. That the developer submits their proposal to meet the minimum of five Sustainable Development Measures outlined in the Zoning By-law. If the Sustainable Development Measures cannot be met, a variance has to be obtained.

Submitted by:

Frances Smee  
Chair, Inland Port Special Planning Authority

Attachments

c.: Derrick Weiss, applicant