

BY-LAW NO. 04/1873
Being a By-law of the Town of Carman
To Amend Zoning By-law No. 92-1707, As Amended.

WHEREAS, Section 47(2) of The Planning Act gives the Council of a municipality the power to amend a zoning by-law;

NOW THEREFORE, the Council of the Town of Carman enacts as follows:

That the Zoning Map, being SCHEDULE "A" of the Town of Carman Zoning By-law No. 92-1707, be amended so that:

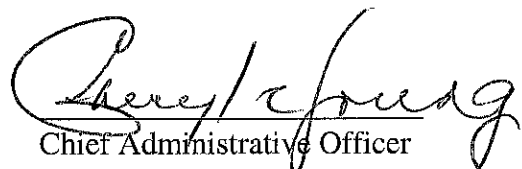
Pt. SW 30-6-4W, lying south of Ross Place and east of 3rd Street S.E.

as shown outlined in a heavy broken line on the map attached hereto as Schedule "A", and forming part of this by-law, be rezoned

FROM: "AL" Agriculture – Limited Zone
TO: "RS" Residential Single-Family Zone

DONE AND PASSED this 24th day of March A.D. 2005.

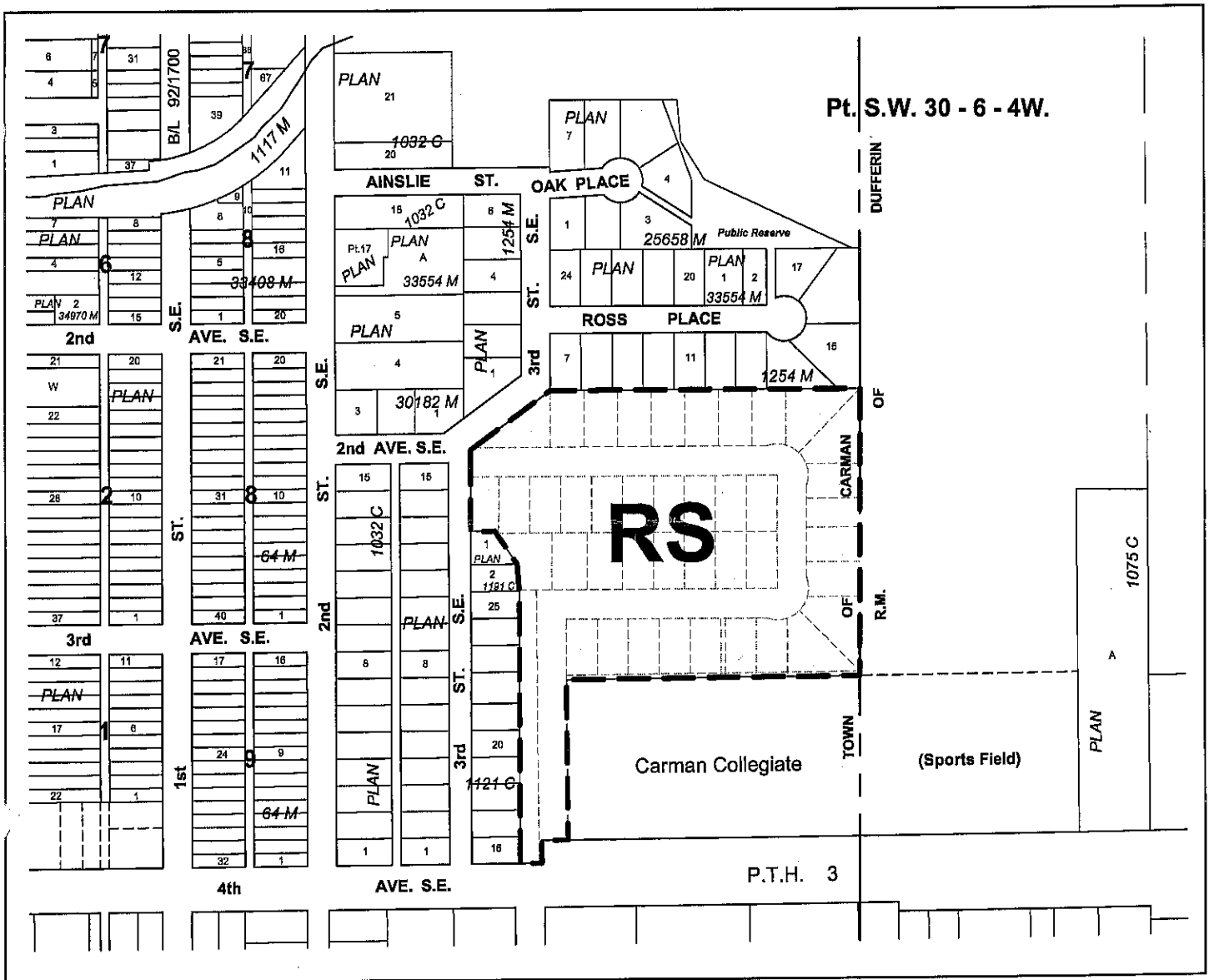

Mayor


Chief Administrative Officer

READ A FIRST TIME this 9th day of September A.D. 2004

READ A SECOND TIME this 14th day of October A.D. 2004

READ A THIRD TIME this 24th day of March A.D. 2005



SCHEDULE "A"

Attached to and forming part of
 BY-LAW No. 04/1873

Amending Schedule "A"
 of the Town of Carman
 Zoning By-Law No. 92-1707.

LEGEND:

[RS] Portion to be rezoned

FROM: "AL" Agriculture - Limited Zone
 TO: "RS" Residential Single - Family Zone

**TOWN OF CARMAN
 Zoning Amendment
 (Pt. S.W. 30-6-4W.)**



1144-363 Broadway
Winnipeg, Manitoba
R3C 3N9

Phone: (204) 945-2941
Fax: (204) 948-2235

March 11, 2005

Ms. Cheryl Young
Chief Administrative Officer
Town of Carman
Box 160 Carman MB R0G 0J0


Dear Ms. Young:

**RE: OBJECTIONS TO PROPOSED ZONING BY-LAW NO. 04/1873 OF THE TOWN OF
CARMAN
FILE NO. 04B3-0010**

We enclose for your information a copy of Municipal Board Order No. B-05-006.

The fee of \$50.00 is now due on the By-law and payable to the Minister of Finance.

Yours truly,


Rose Gibbons
Secretary

/mj/enclosure

c: Mr. Ed Sawatzky, Director, Community Planning Services
Mr. Michael Teillet, Director, Provincial Planning Services
Mr. David Boles, Regional Manager, Morden Community Planning Services

THE MUNICIPAL BOARD OF MANITOBA
DECISION AND ORDER

DECISION DATE: March 11, 2005

Order No. B-05-006
File No. 04B3-0010

IN THE MATTER OF objections to proposed By-law
No. 04/1873 of the Town of Carman being a By-law to
amend the Town of Carman Zoning By-law No. 92-
1707, as amended

APPLICANT: Town of Carman

HEARING DATE: February 15, 2005

PANEL: Mr. D. Guénette, Acting Chair
Mr. J. Nicol, Member
Mr. B. Barlow, Member

APPEARANCES: Mr. Michael Thomson
Counsel
Tapper Cuddy

Mr. Murray Rinn
Mayor

Ms. Cheryl Young
Chief Administrative Officer

- Town of Carman

Mr. Dave Boles
Regional Manager
Community Planning Services

- Intergovernmental
Affairs and Trade

Ms. Agnes Gaultier
Secretary Treasurer

- Prairie Rose
School Division

Mr. Terry Dyck
Mr. Bob Fitchner
Ms. Melanie Natrass
Ms. Sandra Clark

- Presenters

INTRODUCTION

With By-law No. 04/1873, Council for the Town of Carman ("Carman") proposes to amend By-law No. 92-1707, being the Carman Zoning By-law, as amended. The By-law proposes to re-zone certain lands from "AL – Agricultural Limited Zone" to "RS – Residential Single Family Zone".

The proposed By-law was given first reading by Council on September 9, 2004. A public meeting was held in the Carman Council Chambers on October 14, 2004, and the By-law was given second reading by Council on that same date. Objections to the By-law have since been filed under Section 43 of *The Planning Act*, and a hearing was held by The Municipal Board, in the Carman Council Chambers on February 15, 2005.

The Board has considered all of the material filed with it and the submissions made by those in support of and those opposed to the By-law.

BACKGROUND

Lands and Legal Description:

The affected lands are located within the Town of Carman. They comprise one property of approximately 55 acres located along the eastern boundary of Carman. The property is currently suited for agricultural use.

The legal description of the property is as follows:

"Pt. SW 30-6-4W, lying south of Ross Place and East of 3rd Street S.E."

The Owner of the property is R&L Acres Ltd., a company which is said to be owned by Ron Hiebert. Under Carman's Development Plan, By-law No. 89/1633 as amended, the affected lands are already designated for residential use.

The Proposal:

The Owner of the property has been in discussion with Terry Dyck, a real estate agent, regarding planning for the eventual subdivision of the property. The intention is to subdivide for residential development. At this point, the plans show that 40 new residential lots are being proposed.

The Owner and Mr. Dyck have already been in discussions with various officials from the Town of Carman about the possible lay-out for the subdivision. Several options have been considered, but one particular layout currently stands out as the preferred choice. It would have a single new street run through the section, with residential lots on either side. Under this layout, one end of the street would intersect to the east of the property, at 3rd Street S.E. The other end of the street would run down a thin sliver of property between school grounds (to the west) and residential properties (to the east) and eventually intersect to the south of the property, at 4th Avenue S.E.

While those are the preferred subdivision plans for the moment, there is no certainty at this stage whether these are the plans that eventually will be given final approval. A separate process will determine that issue.

Because the lands are already designated for residential use in the Development Plan, it is not necessary to change the designation on the lands. What is required, however, is the proposed change in zoning on the lands because the current zoning does not permit large-scale subdivision for residential development.

PRESENTATIONS

At the public hearing, Carman was represented by its Legal Counsel, Michael Thomson. The Board heard from Cheryl Young, Carman's Chief Administrative Officer, in addition to Mayor Murray Rinn. The Board also heard from Terry Dyck, who spoke on behalf of the property Owner. Those are the people who have expressed support for the proposal.

The Board also heard from Dave Boles, Regional Manager of Community Planning Services for the Department of Intergovernmental Affairs and Trade. He spoke neither for nor against the By-law, however he did provide relevant background information to the Board.

THE MUNICIPAL BOARD OF MANITOBA

Order No. B-05-006

File No. 04B3-0010

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Four people spoke in opposition to the By-law. Agnes Gaultier spoke in her capacity as Secretary-Treasurer of the Prairie Rose School Division. Bob Fitchner, Melanie Nattrass, and Sandra Clark are residents who live in close proximity to the affected lands. Despite their stated opposition to the By-law, the Board notes that none of these people are resisting the general notion of residential development occurring on the lands. Their reason for disagreement is in relation to some of the details that are contained in the currently preferred plan of subdivision.

Mr. Fitchner's concerns relate to drainage. He owns a house on Ross Street, which lies to the immediate North of the affected lands. Explaining that he speaks on behalf of himself and other home owners from the same area, Mr. Fitchner says there are already water drainage problems in the area. He wants to be assured that any new development will not cause the existing problems to be made any worse.

Ms. Nattrass and Ms. Clark each own homes that lie to the West of the affected lands, along 3rd Street S.E. Their concerns relate to the plight of their homes, as well as that of eight other homes along that street. If the plan of subdivision that is currently preferred is to be approved, they will see a new public roadway established along their back yards. This will effectively result in these 10 homes being sandwiched between public streets that will run along both their front and back yards. These homeowners do not want to see this happen.

Ms. Gaultier raised three concerns on behalf of the Prairie Rose School Division, which occupies the Carman Collegiate on lands to the South and East of the affected lands. Two of those concerns, she explains, are already in the process of being resolved to the mutual satisfaction of the interested parties. The one outstanding concern is that the school division would like to see a crosswalk being established somewhere at the midway point of 3rd Street S.E., in order to provide a safe crossing area for students.

ANALYSIS AND CONCLUSIONS

The Board has considered the By-law and heard the representations that were made. The Board has paid close attention to the particular concerns articulated by Mr. Fitchner, Ms. Nattrass, Ms. Clark and Ms. Gaultier.

At this stage of the process, the Board is considering a proposal to amend Carman's Zoning By-law. As such, the issue is limited to whether the lands should be rezoned from one category of zoning to another. Whatever the Board concludes in relation to this proposed rezoning, it is not making any findings about possible subdivision plans.

The lands are currently zoned agricultural. This is not a zoning category that lends itself to wide-scale residential development. If any notable amount of residential development is to take place on the lands, they must first be rezoned. This is precisely what the Owner and Carman's Council are proposing at this time with the proposed By-law.

It appears that everyone is in agreement that wide-scale residential development is an appropriate use for the lands in question. While there is disagreement about which plans should prevail when the time will come to approve a plan of subdivision, nobody is questioning the initial point that the lands are appropriate for wide-scale residential development.

The concerns that have been raised are not matters that can be addressed by the Board at this stage of the approval process. They are all matters that can more appropriately be addressed at later stages of the approval process – whether it be at the time the plan of subdivision needs to be approved, or at some other point such as entering into a development agreement between the Town of Carman and the property Owner.

The Board is satisfied that the proposed By-law is consistent with the Policies in the Development Plan and that the lands must be rezoned if any wide-scale residential development is to take place on the lands. No reasons have been given that should cause the Board to refuse the proposed By-law at this stage of the process.

The Board therefore finds that the Carman By-law No. 04/1873 should be approved.

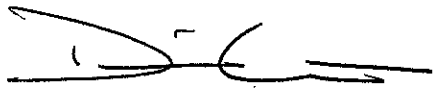
THEREFORE, THE BOARD ORDERS:

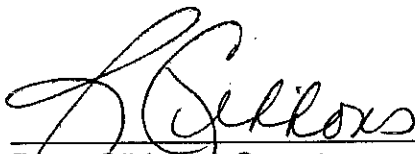
- 1) That the Town of Carman By-law No. 04/1873 **BE CONFIRMED.**

- 2) That a filing fee in the amount of \$50.00 be paid by the Town.

FOR THE MUNICIPAL BOARD

March 11, 2005
Date


Denis Guénette, Acting Chair


Rose Gibbons, Secretary