Minutes - Executive Policy Committee – July 20, 2005

Minute No. 510
Report - Standing Policy Committee on Property and Development – July 18, 2005

Item No. 1 Subdivision and Rezoning - east of Main Street, south of Commonwealth Avenue [Greenview Homes (Manitoba) Ltd.] File DASZ 10/2005

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

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, as amended, and submits the following to Council:

1. That the plan of subdivision proposed under File DASZ 10/2005 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with revised Schedule "A" for File DASZ 10/2005 dated June 16, 2005, for registration in the Winnipeg Land Titles Office subject to the following:

    A. The Developer be required to enter into a Development Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated May 31, 2005, with the following amendments:

        i. That clause D be deleted and replaced with the following new clause, namely:

            "The collector street Ridgecrest Avenue/Rivergrove Drive is to be constructed in accordance with the amended plan of subdivision submitted by the applicant and filed as Exhibit '16'".

        ii. That the Developer's responsibilities in clauses 1. a) and b) be limited to those traffic improvements that have not yet been installed.

        iii. That in clause 10 add the words "prior to the issuance of any occupancy permits" after the words "Director of Public Works" in the third line.

        iv. That in clause 16 add the words "to a maximum cost of $250,000.00" after the word "dike" in the fifth line.

        v. That a new clause be added as number 21, namely:

Report - Standing Policy Committee on Property and Development - July 18, 2005

"21. The Developer's responsibility for trail development within the river bottom forest area be limited to the cost of developing a low impact natural trail to be designed in consultation with and to the approval of the City Naturalist and located below the elevation of the crest of the dike".

2. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

3. That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on revised Schedule "A" for File DASZ 11/2005 dated June 16, 2005, to an "R1-4" Residential District, a "C2" Commercial District and a "PR1" Parks and Recreation District subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

   A. That for the land zoned "C2" Commercial the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location, design, and materials of the proposed building, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping, and signage to the Lord Selkirk-West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property, and Development.

   B. That the developer erect two, four (4) foot by eight (8) foot signs on the vacant commercial lands indicating the location and zoning of the commercial property; and plans for the signs shall be submitted to the Lord Selkirk-West Kildonan Community Committee for approval prior to their erection and the signs shall be maintained to the satisfaction of the Director of Planning, Property and Development until such time that the land is either developed or rezoned for non-commercial use.

4. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

Report - Standing Policy Committee on Property and Development - July 18, 2005

5. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

6. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

7. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

8. That the Plan of Subdivision shall be submitted for the approval of the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

9. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

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Report - Standing Policy Committee on Property and Development – July 18, 2005

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,

That Rule 9.3 of the Procedure By-law be suspended in order that the following item, which was received too late to be placed on the regular agenda, be considered by Committee.

Carried

Moved by Councillor De Smedt,

That the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee, as amended, be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On July 18, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation from the Lord Selkirk-West Kildonan Community Committee with the following amendments:

- That Recommendation 1.A.i be deleted in its entirety.
- That the word "former" in line 1 of Recommendation 1.A.ii. be deleted.
- That Recommendation 1.A.iv. be deleted in its entirety.
- That Recommendation 1.A .v. be deleted in its entirety.
- That the word "former" in line 1 of Recommendation 1.A.vii. be deleted.
- That Recommendation 1.A.viii. be deleted in its entirety.
- That Recommendation 1.A.ix., be added as number 21,

and submitted the matter to the Executive Policy Committee and Council.

Report - Standing Policy Committee on Property and Development - July 18, 2005

DECISION MAKING HISTORY (continued):

On July 5, 2005, the Standing Policy Committee on Property and Development laid over consideration of the matter to a special meeting of the Committee to be held on July 18, 2005, at 9:00 a.m. in the West Committee Room, Council Building, 510 Main Street and in the interim requested the Administration to review the recommendations from the Lord Selkirk-West Kildonan Community Committee as they relate to dedication and the deletion of various obligations and payments in light of the desire to preserve the river bottom forest area, and, to report back on the value of the additional river bank lands and the issue of compensation to the Developer.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 16, 2005, the Lord Selkirk-West Kildonan Community Committee did not concur in the administrative recommendation (for an adjournment) and recommended that the application for subdivision and rezoning under File DASZ 10/2005 be approved, subject to conditions of approval outlined in the report of the Manager of Planning and Land Use dated June 6, 2005, with the following amendments, namely:

Report of the Manager of Planning and Land Use:

- That in recommendation 1, the word "revised" be added in front of the words "Schedule A" and the date of the Schedule "A" be changed to read "June 16, 2005".

- That in recommendation 3, the word "revised" be added in front of the words "Schedule A" and the date of the Schedule "A" be changed to read "June 16, 2005".

- That in recommendation 8, the words "approved and signed by" be replaced with the words "submitted for the approval of".

Report of the Administrative Coordinating Group:

- That clause B be deleted in its entirety and the remaining clauses renumbered accordingly.

- That former clause D be deleted and replaced with the following new clause, namely: "The collector street, Ridgecrest Avenue/Rivergrove Drive, is to be constructed in accordance with the amended plan of subdivision submitted by the applicant and filed as Exhibit "16".

Report - Standing Policy Committee on Property and Development - July 18, 2005

DECISION MAKING HISTORY (continued):

- That the Developer's responsibilities in clauses 1. a) and b) be limited to those traffic improvements that have not yet been installed.

- That in clause 1. c), the word "full" in the first line be replaced with the words "fifty percent (50%) of the".

- That clause 3 be deleted in its entirety and the remaining clauses renumbered accordingly.

- That in former clause 10, add after "Director of Public Works" in the third line, the following words "prior to the issuance of any occupancy permits".

- That in former clause 16 add, after the word "dike" in the fifth line, the words "to a maximum cost of $250,000.00".

- That the clause originally numbered as 19 be deleted in its entirety and the remaining clauses renumbered accordingly.

- That a new clause be added as number 19, namely:

    "19. The Developer's responsibility for trail development within the river bottom forest area be limited to the cost of developing a low impact natural trail to be designed in consultation with and to the approval of the City Naturalist and located below the elevation of the crest of the dike".

and submitted its recommendation to the Standing Policy Committee on Property and Development.

On June 14, 2005, the Lord Selkirk-West Kildonan Community Committee adjourned the public hearing to June 16, 2005, at 9:00 a.m. in the North Committee Room, Council Building.

RE: **Subdivision and Rezoning - east of Main Street, south of Commonwealth Avenue [Greenview Homes (Manitoba) Ltd.] File DASZ 10/2005**

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

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

Report date: **June 29, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

The Lord Selkirk-West Kildonan Community Committee did not concur in the administrative recommendation (for an adjournment) and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 10/2005 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with ***revised*** Schedule "A" for File DASZ 10/2005, dated ***June 16, 2005***, for registration in the Winnipeg Land Titles Office, subject to the following:

    A. The Developer be required to enter into a Development Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated May 31, 2005, ***with the following amendments.***

        i. ***That clause B be deleted in its entirety and the remaining clauses renumbered accordingly.***

        ii. ***That former clause D be deleted and replaced with the following new clause, namely:***

        "The collector street, Ridgecrest Avenue/Rivergrove Drive, is to be constructed in accordance with the amended plan of subdivision submitted by the applicant, and filed as Exhibit "16".

        iii. ***That the Developer's responsibilities in clauses 1. a) and b) be limited to those traffic improvements that have not yet been installed.***

        iv. ***That in clause 1. c), the word "full" in the first line be replaced with the words "fifty percent (50%) of the".***

        v. ***That clause 3 be deleted in its entirety and the remaining clauses renumbered accordingly.***

vi. That in former clause 10, add after "Director of Public Works" in the third line, the following words "prior to the issuance of any occupancy permits".

vii. That in former clause 16, add after the word "dike" in the fifth line, the words "to a maximum cost of $250,000.00".

viii. That the clause originally numbered as 19 be deleted in its entirety and the remaining clauses renumbered accordingly.

ix. That a new clause be added as number 19, namely:

"19. The Developer's responsibility for trail development within the river bottom forest area be limited to the cost of developing a low impact natural trail to be designed in consultation with and to the approval of the City Naturalist and located below the elevation of the crest of the dike".

2. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

3 That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on ***revised*** Schedule "A" for File DASZ 10/2005, dated ***June 16, 2005***, to an "R1-4" Residential District, a "C2" Commercial District, and a "PR1" Parks and Recreation District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to, to include the following conditions:

A. That for the land zoned "C2" Commercial, the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location, design, and materials of the proposed building, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping, and signage to the Lord Selkirk – West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property, and Development.

B. That the developer erect two, 4 foot by 8 foot signs on the vacant commercial lands indicating and location and zoning of the commercial property; and plans for the signs shall be submitted to the Lord Selkirk-West Kildonan Community Committee for approval prior to their erection; and the signs shall be maintained to the satisfaction of the Director of Planning, Property, and Development until such time that the land is either developer or rezoned for non-commercial use.

4. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

5. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

6. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

7. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office, and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

8. That the Plan of Subdivision shall be ***submitted for the approval of*** the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

9. In the event that the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reasons for its recommendation:

1. The proposed development is infill housing which Plan Winnipeg encourages and will assist in addressing the shortage of serviced land in the City.

2. The proposed development includes a new high school for the students of West Kildonan, which will result in a new running track and recreational fields for the community to enjoy.

3. The proposed amendments to the report of the Administrative Coordinating Group endeavours to protect 99% of the natural lands in the amended plan of subdivision and protect the shoreline from riverbank erosion inasmuch as the Developer will be paying the sum of $250,000.00 towards rip-rap.

4. The proposed development has unusual costs which no other development in this part of the City has had to incur and the proposed amendments to the report of the Administrative Coordinating Group seek to mitigate some of those costs to make it fair for both sides.

5. There is minimal opposition to this application.

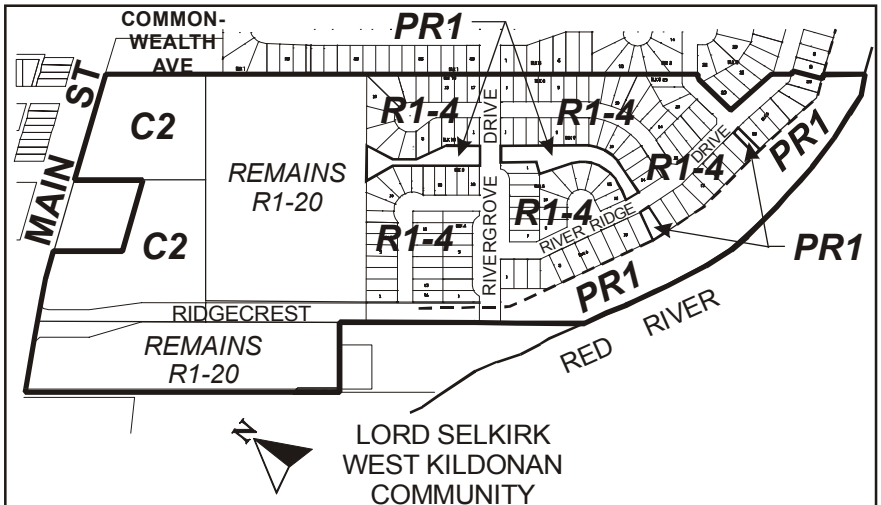
PUBLIC HEARING SUMMARY

File: DASZ 10/2005
[c/r DAV 132315/2005D and DCU 114829/2005D]

Public Hearing: June 14, 2005
June 16, 2005
Council Building, 510 Main Street

Applicant: Lombard North Group (1984) Ltd.
(David Palubeski)

Subject:



APPLICANT : LOMBARD NORTH GROUP
FILE : DASZ 10/05
PROPOSAL : An application for the approval of the plan of subdivision shown outlined above as may be determined by Council and for a proposed zoning change to By-law No. 6400/94 by rezoning the land shown outlined above from an "R1-20" RESIDENTIAL DISTRICT to a "PR1" PARKS AND RECREATION DISTRICT, an "R1-4" RESIDENTIAL DISTRICT and a "C2" COMMERCIAL DISTRICT. **For information, phone Mr. M. Robinson, Planner at 986-3213.**

Premises Affected: east of Main Street, south of Commonwealth Avenue

Exhibits Filed:

1. Revised Application dated May 26, 2005
2. Notification of Public Hearing dated May 26, 2005
3. Manitoba Status of Titles 1132676, 1132683, 1128039, 1916229, 1128912, 1611307

4a. Letter of authorization dated February 3, 2005, from Greenview Homes (Manitoba) Ltd. to Lombard North Group (1984) Ltd. and Seven Oaks School Division

4b. Letter of authorization dated February 3, 2005, from Geal Investments Ltd. and Winntori Developments Ltd. to Lombard North Group (1984) Ltd.
4c. Letter of authorization dated February 3, 2005, from Seven Oaks School Division to Lombard North Group (1984) Ltd.
4d. Letter of authorization dated November 24, 2004, from B.D.B. Enterprises Ltd. to Greenview Homes (Manitoba) Ltd.
5. Proposed development Lot Width and Area Calculations dated May 13, 2005
6. Plan showing proposed Green View subdivision dated May 10, 2005
7. Communication dated June 7, 2005, from Margaret Reda in opposition to the application
8. Communication dated June 10, 2005, from Karen Jones in opposition to the application
9. Report from the Manager of Planning and Land Use dated June 6, 2005
10. Report from the Administrative Coordinating Group dated May 31, 2005
11. Communication dated June 14, 2005, from Jacques Tardif, Canada Research Chair in Dendrochronology, Centre for Forest Interdisciplinary Research, University of Winnipeg, in opposition to the application
12. Inspection Report
13. Communication dated June 14, 2005, from John Whiteway in support of the application, submitted by David Palubeski at the public hearing on June 14, 2005
14. Communication dated June 14, 2005, from Carol Lehmann in support of the application, submitted by David Palubeski at the public hearing on June 14, 2005
15. Communication dated June 14, 2005, from David Palubeski, President, Lombard North Group (1984) Ltd., outlining the Developer's response to the ACG proposals for amending the aforesaid plan of subdivision, submitted at the public hearing on June 14, 2005
16. Amended Plan of Subdivision for DASZ 10/2005 dated June 10, 2005, submitted by David Palubeski at the public hearing on June 14, 2005
17. Presentation of Christine Common-Singh on behalf of The Coalition to Save the Elms, in opposition to the application submitted at the public hearing on June 14, 2005
18. Presentation and photographs submitted by Lisa Kazmerik in opposition to the application submitted at the public hearing on June 14, 2005

REPRESENTATIONS:

In Support:

Baldev S. and Paramjit Bedi
Ric Carrgon
Carol and Werner Lehmann
Ross Mitchell
Brian O'Leary
David Palubeski, Lombard North Group (1984) Ltd.
Brenda L. Rosney
John Whiteway

In Opposition:

Christine Common Singh, on behalf of the Coalition to Save the Elm
Karen Jones
Michele Kading
Lisa Kazmerik
Margaret Reda
Robert Snyder
Jacques Tardif, Canada Research Chair in Dendrochronology,
Centre for Forest Interdisciplinary Research, University of Winnipeg
Bob and Anita Victoruk

For Information:

Moira Cole
Betty Ann and Richard Graydon
Kristine Koster
Douglas W. Machan
M. J. Mouser

For the City:

Mr. D. Marsh, Planner, Planning, Property and Development Department
Mr. M. Robinson, Planner, Planning, Property and Development Department
Mr. E. Carriere, Land Development Engineer, Planning, Property and Development Department
Mr. D. Kingerski, Riverbank Management Engineer, Planning, Property and Development Department
Ms C. Heming, City Naturalist, Public Works Department
Mr. G. Mohr, Land Drainage Planning Engineer, Water and Waste Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

June 14, 2005
David Palubeski, on behalf of Lombard North Group (1984) Ltd. appeared in support of the application and indicated he would be speaking to the applications under File Nos. DASZ 10/2005 and DASZ 11/2005 concurrently. Committee was advised the applicant was representing three interests with the two subject applications, namely, the Seven Oaks School Division (for the proposed high school), Greenview Homes (Manitoba) Ltd., and Coral-Reef Holdings Ltd. Mr. Palubeski also submitted two letters of support from the two adjoining property owners affected by the proposed development; namely, John Whiteway and Carol Lehmann, filed as Exhibits "13" and "14" respectively, which were read into the record. Mr. Palubeski emphasized the need for the proposed development to accommodate the future uses of these lands. With the aid of an overhead projector, Mr. Palubeski gave an overview of the proposed development, and read into the record his presentation filed as Exhibit "15".

Committee was also advised "River Ridge" is the name that has been given to the area within Winnipeg north of the Chief Peguis Trail, on the east side of Main Street, south of Rivergrove Drive and is the name of this subdivision. It also represents the last piece of vacant land along the river on North Main Street and an opportunity for infill development. Mr. Palubeski stated that prior to this public hearing, two public open houses were held where over 300 area residents attended the first open house and 100 at the second one. As a result of these open houses, community input was obtained in terms of the planning direction of the proposed development, and the applicant made adjustments to the original plan of subdivision. Additionally, in an effort to reconcile the City's wants in terms of dedication, while not compromising the potential economics of the project, an amended plan of subdivision was compiled, which Mr. Palubeski submitted and has been filed as Exhibit "16". He also advised that the amended plan received the support of the majority of the area residents who attended the second public open house and were supportive of the proposed development. He further noted that in the amended plan, the open space dedication was increased from 7.1 acres to 9.8 acres, composed entirely of river bottom forest area, and that the location of the dike was moved further away from the river. Accordingly, the total dedication under DASZ 10/2004 will be 24% of Greenview's property (excluding the school site). Mr. Palubeski also stated that only nine (9) of the large cottonwood trees would be impacted by the proposed development, but that the amended plan would

preserve the majority of the river bottom forest. In answer to Committee's question with respect to riverbank stabilization works, Mr. Palubeski stated that according to their engineer's report, with the relocation of the dike further away from the river, that if the erosion that has occurred as it has in the last fifty years continues for the next 100 years at the same rate, they would have a hundred year safety margin before the tow of the dike became an issue in terms of erosion protection. Mr. Palubeski further stated that his client requests that they be excluded from providing riverbank rip-rap for this development, but would be agreeable to contributing to same if the City provided lands in exchange for the additional park area they would provide. In this connection, Mr. Palubeski made specific reference to the lands owned by the City on Red River Boulevard. Mr. Palubeski also stated that his clients' agreement to consider providing the additional river bottom forest and open space dedication is offered with the expectation that the City would provide credits under the Development Agreement to re-balance the financial impact of dedication of the project.

With respect to the administrative recommendation for an adjournment, Mr. Palubeski requested Committee to not concur in the request, and stated the opinion that an adjournment would only serve to delay the proposed project, and more importantly, delay the construction of the high school which is slated for opening in September 2007. He also stated that they have made every effort to work with the Administration in finding a creative solution to the unresolved issues. In response to Committee's question as to the level of funding being provided by the Seven Oaks School Division for the proposed development, Mr. Palubeski responded that with the construction of the high school, the community will benefit from increased green space and expanded recreational opportunities, inasmuch as a running track, a soccer field, basketball and tennis courts are proposed with the high school, that would be available for the joint use of the community.

Mr. Palubeski stated concurrence in part with the recommendations outlined in the report of the Manager of Planning and Land Use (Exhibit "9") and the report of the Administrative Coordinating Group (Exhibit "10"), and went over the Developer's responses to the ACG proposals, as outlined in Exhibit "15", in return for amending the plan of subdivision for DASZ 10/2005.

Brian O'Leary, Superintendent, Seven Oaks School Division No. 10, also appeared in support of the application. He emphasized the need for approval to be given to the high school and confirmed that the School Division is aiming for final construction and occupancy no later than September 2007. He stated the proposed site is a good location for a high school., In response to Committee's question, Mr. O'Leary stated the high school will cost approximately 12,000,000, will be 97,000 sq. ft. in size and will include a large day care which will accommodate seventy-nine (79) infants and pre-schoolers.

Christine Common Singh, on behalf of the Coalition to Save the Elms, appeared in opposition to the application as long as certain conditions were not met. She advised Committee that the position of the Coalition is consistent with the position of the City Naturalist, namely, that the entire 6.5 acres of river bottom forest should be preserved as an intact eco-system which is of very high environmental value. Ms Singh read into the record her presentation, filed as Exhibit

"17". She stated the Coalition had two recommendations; one for the short term and one for the long term, namely,

1. That the recommendation on this matter be adjourned in order that a meeting be convened with the developer, administrators, scientists and other interested parties to further examine what is required to facilitate the developer while, at the same time, ensuring the preservation of a priceless ecological treasure.

2. The Coalition wishes to initiate a process with the City with the objective of creating a legislative package, with carrots and sticks, which will serve as a clear guide to developers, to decision makers and to the public as to which ecological entities in the city are protected and which are not.

Bob Victoruk, also appearing in opposition to the application, stated concern with the proposed "C2" zoning with the proposed multiple-family component that would result in a higher density for the area.

Robert Snyder, also appearing in opposition to the application, stated concern with respect to the addition of a collector street, Ridgecrest Avenue, off Main Street, and the resulting increase in traffic for the area.

Michele Kading, also appearing in opposition to the application, expressed disappointment that the Community Committee was not considering an adjournment of the application to allow the developer to continue negotiations with the City Administration, which in her opinion, has made very important points that ought to be resolved first. Ms Kading urged Committee to take steps to ensure that the entire river bottom forest was salvaged, and noted that it has been identified as a priority in Plan Winnipeg. She stated that as this is a unique and sensitive area, prone to flooding, it should not be developed. She indicated concurrence in the comments made by the Coalition to Save the Elms that we need to look creatively at alternatives and ways by which the Developer can be compensated so that the river bottom forest lands can be set aside.

Lisa Kazmerik, also appearing in opposition to the application, advised Committee that she lives in the Rivergrove area. She stated concurrence in the comments made by Christine Common Singh, on behalf of the Coalition to Save the Elms, and Michele Kading. She read into the record her presentation, filed as Exhibit 18, and expressed concern regarding the river bottom forest and how it is being threatened with the proposed development.

Karen Jones, also appearing in opposition to the application, expressed concern regarding the habitat loss that is recognized as the number one threat to biodiversity that would occur with approval of the proposed development. In tact river bottom eco systems are rare and the proposed development would threaten this eco system. She therefore requested that Community Committee not permit development that would threaten this eco system and contribute to further fragmentation of the river bottom habitat.

Moira Cole, appearing for information, stated that for the most part, she is in favour of the proposed development but requested clarification on the houses that will be going into the development and the side yard requirements with the "R1-4" zoning.

In rebuttal, Mr. Palubeski stated that the original plans provided 3.1 acres of river bottom forest but the amended plan increases that area to 4.9 acres of river bottom forest that would not be impacted by the dike or the tow of the dike. Mr. Palubeski also noted that the river bottom forest has been abandoned and not been looked after for years. He stated that with the proposed development, the river bottom forest will be a City asset, be supervised and will become a valuable resource integrated into the community.

He further stated that the proposed "R1-4" zoning will provide the Developer with flexibility with regards to house sizes and make it more affordable for home buyers, not to mention that approval of the proposed development will address the shortage and unavailability of serviced land in the City.

With respect to the request for the adjournment, Mr. Palubeski reiterated that his clients do not want to have the application adjourned inasmuch as every effort with the Administration has been made to find a solution to unresolved issues.

In conclusion, Mr. Palubeski requested Committee to recommend approval of the amended plan of subdivision which he submitted (filed as Exhibit "16") and also requested Committee's support for the credits to the Developer that have been identified in Exhibit "15", which, in his opinion, are an innovative way and without cost to the City, to compensate the Developer for a major contribution towards preserving part of the natural area within the riverbank.

June 16, 2005
No further representations were heard at the adjourned public hearing inasmuch as public representations were concluded on June 14, 2005.

Exhibit "9" referred to in File DASZ 10/2005 [c/r DAV 132315/2005D and DCU 114829/2005D]

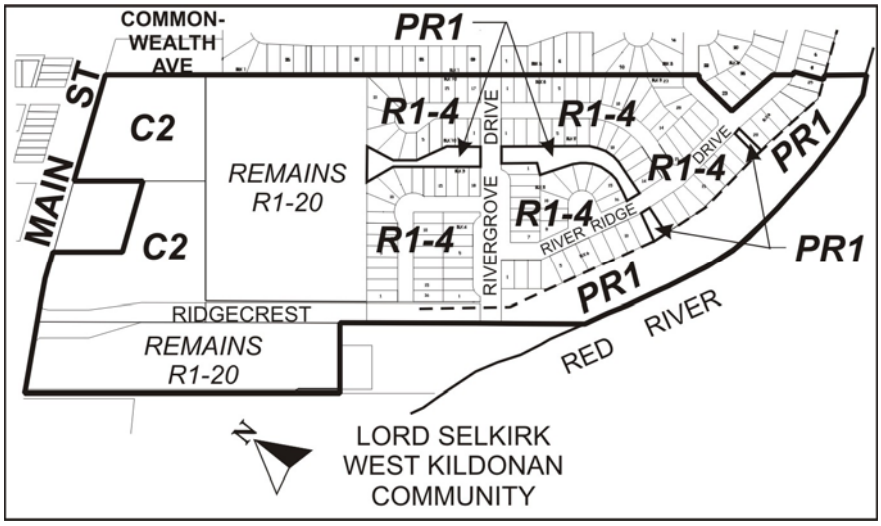
Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk – West Kildonan Community Committee

Date: **June 6, 2005**
File: **DASZ 10/05**
Related Files: **DASZ 10/05, DCU 05-114829D, DAV 05-132231D**
Subject: **An application has been received from Dave Palubeski, Lombard North Group for approval of a plan of subdivision and related zoning change to Zoning By-Law No. 6400/94 by rezoning the subject lands from a "R1-20" Residential District to "R1-4" Residential District and "PR-1" Parks and Recreation District to allow for the creation of single family lots and public reserve land.**

Location: **South of Rivergrove Drive between Main Street and the Red River**



Applicant: **Lombard North Group c/o Dave Palubeski**
Owner: **Green View Homes, Ltd.**
Seven Oaks School Division

Recommendation: **Adjournment**

6460

Report Summary:

- **Application to create 192 single-family lots, a high school site, two commercial sites, and 9.9 acres of public reserve land.**
- **Proposal meets Plan Winnipeg policies supporting infill development and compatible land use.**
- **The following issues remain outstanding**
  1. **The City Naturalist has identified the river bottom forest habitat as being of extraordinary quality and recommended for preservation in its entirety (6.5 acres) through dedication.**
  2. **Two proposed public reserve corridors do not meet the City's requirements at this time.**
  3. **A second point of access cannot be provided until there is resolution with the easement across the road right of way.**
  4. **The proposed 90 degree turning radius at Rivergrove Drive does not meet City standards and is not acceptable to the Public Works Department**
  5. **The riverfront lot depths will require modification to accommodate the dike completely within the private lots – leaving no disturbances within the public reserve land.**
  6. **The City's Flood Protection and Riverbank Management Engineers have identified a need for the applicant to stabilize the eroding section of riverbank consistent with bank stability standards established for construction of Primary Dikes along the City's waterways. Such works are to be designed and reviewed to the satisfaction of the City.**
- **The recommendation is to adjourn to a future date to allow more time for resolution of the outstanding issues**

Site Description

The subject site, which includes several undeveloped parcels, is zoned "R1-20" Residential. The total site area is 61.8 acres.

North: To the immediate north is undeveloped property zoned "R1-20", which is the subject of associated application DASZ 11/04. Further north is the River Grove subdivision, which is fully developed and contains a mix of "R1-5" and "R1-6" Residential lots. It is fronted along Main Street by commercial establishments, zoned "C2" Commercial.

South: Residences and undeveloped property zoned "R1-20" Residential.

East: The Red River bounds the property on the east.

West: To the immediate west are commercial establishments and undeveloped property fronting Main Street zoned "C2" Commercial. Further west are residential properties zoned predominantly "R1-5" Residential.

Adjoining Development Proposal: A second development proposal for lands to the north (DASZ 11/05) has also been received. As the two proposals have not been made jointly, they are being considered separately.

Description of the Proposed Development

Overview
The subject application constitutes infill development on several undeveloped parcels of land in the Rivergrove neighbourhood of the Old Kildonan Ward. The plans provide for the southerly extension of Rivergrove Drive connecting with Main Street at a proposed new signalized intersection.

Lots
192 single-family lots, zoned "R1-4" Residential, 9.9 acres of public reserve land zoned "PR1" Parks and Recreation, 9.76 acres of land abutting Main Street zoned "C2" Commercial, and a 12 acre high school site zoned "R1-20" are being proposed with this development. The gross density, notwithstanding any future multi-family on the "C2" lands (see associated file DCU 05-114829D), is 4.18 units per acre and the lot averages are as follows:
West of Rivergrove Drive 44.8 feet x 114.8 feet (5,143 square feet)
East of Rivergrove Drive 50 feet x 114.8 feet (5,740 square feet)

Streets
The street alignment includes several east/west locals intersecting with the proposed collector, Rivergrove Drive, which would extend from the south and tie into Main Street at a proposed new signalised intersection.

Natural Areas
6.5 acres of natural habitat has been identified along the eastern portion of the site, adjacent to the Red River. This area is heavily treed, including numerous Cottonwood trees that are at least one metre in diameter and 100-150 years old.

Dike
A portion of the proposed development is located within the City's designated "Floodway Fringe Area" and therefore requires flood protection as outlined in the Designated Floodway Fringe Area Regulation 266/91. To flood proof the area, the developer is proposing to construct a primary dike. Any proposed primary dike construction must meet standards stipulated by the City and the Provincial Dyking Commissioner.

Public Consultation
Public input was received by the applicant at two open houses, which were held at Ecole Riverbend on April 20, 2005 and May 12, 2005. Both open houses were well attended by the community.

Analysis

Plan Winnipeg
Under Plan Winnipeg 2020, the subject area is, in its entirety, within a Neighbourhood Policy Area. Neighbourhood Policy Areas are intended to include a residential mix together with a variety of educational, recreational, institutional, commercial and possibly industrial uses, at a

scale and density compatible with each other. This development meets several key goals of Plan Winnipeg including *infilling of vacant lands* (3A-02 iv) and *supporting new development which is adjacent to, and compatible with, existing development* (3A-02v). There is a demonstrated need for new residential development in the area and recognition that infill lands, with existing service in place, are the best place to accommodate it. This subdivision represents an orderly expansion of residential development and a logical next step for the Rivergrove Neighbourhood to the north.

Another objective of Plan Winnipeg, and of equal importance, is the protection of environmentally sensitive lands that contain important pockets of natural flora and fauna by evaluating proposed new developments that impact high–quality natural areas and encouraging the protection and preservation of such lands to the greatest extent possible.

Issues

The Planning and Land Use Division supports the proposed infill residential development. However, there are several issues which remain unresolved and need to be evaluated in detail. These include, but are not limited to:

1. Preservation of the river bottom forest
2. The amount and area to be dedicated for public reserve
3. A lack of a secondary point of access
4. The proposed turning radius at Rivergrove Drive
5. The location of the primary dike
6. The requirement for bank stabilization

1. *River bottom Forest*

The City Naturalist has identified the river bottom forest area on the subject lands to be of significant quality and has identified this area for preservation to the greatest degree possible. Her comments are provided in Appendix 3.

The entire river bottom forest area identified for preservation measures 6.5 acres. If this area were taken in its entirety for dedication, it would amount to an overall dedication of 10.5%.

The applicant has proposed to preserve a portion of the area, approximately 4.3 acres, and to develop the remaining portion. He indicates that he is not prepared to provide a further dedication of the river bottom forest area without compensation from the City, in the form of either a cash payment or a waiver of certain obligations under the development agreement.

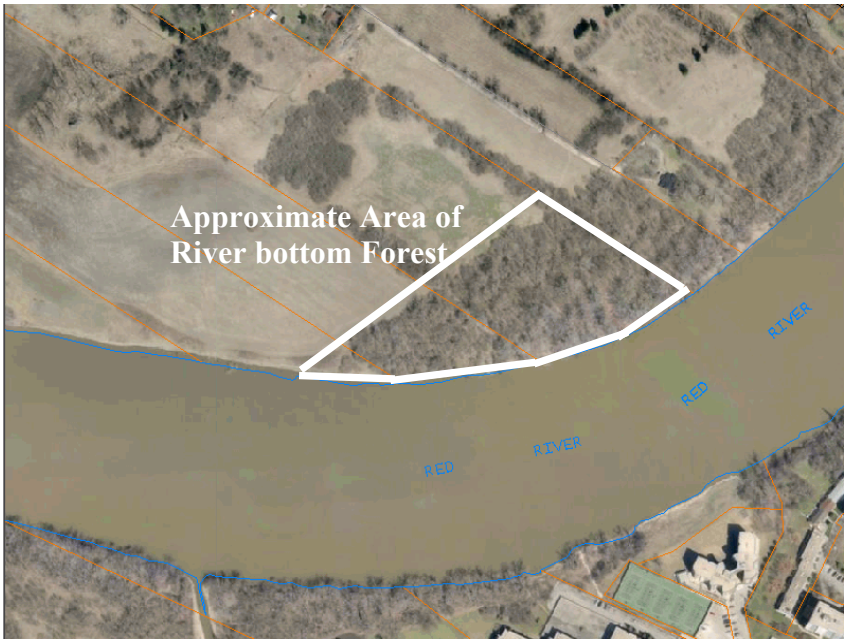


Figure 1: Approximate Area of River Bottom Forest

2. ***Public Reserve Dedication***

As noted above, the entire river bottom forest area requested amounts to a dedication of 10.5%. The applicant has proposed to dedicate 4.3 acres within the river bottom forest (7%). The applicant also desires to dedicate 1.5 acres for a trail network between the school and the riverfront and an additional 2.5 acres along the riverfront – south of the treed area. (See Appendix 5)

The Planning and Land Use Division has reviewed their requirements for open space in the area and has indicated that these additional lands are not needed. If the applicant chooses to provide the pathway as an additional amenity for future residents and students, it will be supported and encouraged by the City and would be accepted and maintained as public reserve. However, it is not a requirement of this development.

Similarly, the land to the south of the river bottom forest is not required and will provide little benefit to the City, with the exception of a pathway, which can also be accommodated without actual ownership through an easement. This area is heavily eroded and may continue to experience additional erosion in the future without stabilization measures. This, coupled with the fact that the dike footprint will encroach on the majority of this land leads to the conclusion that this land is of little value to the City and would be better utilized in the ownership of the private lots abutting this property – with an easement to be maintained along the river for a pathway.

3. ***Secondary Point of Access***

In order to construct the southerly extension of Rivergrove Drive, which would connect with Main Street via a proposed new signalized intersection, a portion of an existing city-owned right-

of-way, where it intersects with the proposed Rivergrove Drive right-of-way, is required to be opened as a street.

At this time, the applicant has not been able to reach an agreement with the individual who holds an easement across the proposed right-of-way for the extension of Rivergrove Drive to the south, preventing this land from being opened as a public street. As discussed in more detail in the related report for the property to the north (DASZ 11/05), the failure to secure agreement from the individual prevents the crucial connection with Rivergrove Drive to the north and eliminates an essential second point of access to both this development and that to the north.

4. *Rivergrove Drive turning radius*

The applicant is proposing a 90 degree turning radius on Rivergrove Drive, where it changes directions north to west. Public Works has indicated that this situation is unacceptable because it would result in very difficult manoeuvring for larger vehicles, transit buses, and delivery vehicles, and potentially unsafe operating conditions for traffic in general. The potential for accidents will be increased.

The applicant has indicated that this alignment is a traffic calming measure and has the support of both the school and local residents who attended the public open houses. He has stated that he is not prepared to make modification to the street alignment to provide for a wider turning radius.

5. *Location of Primary Dike*

Adjacent to river bottom forest

The applicant is proposing a top of dike location at the rear of the riverfront lots, with the riverside slope of the dike extending up to 65 feet into the designated public reserve land. The regrading and fill that will be required for the dike will destroy a substantial number of the trees in this area and substantially disturb the area which the City Naturalist has targeted for protection.

The applicant has hired an arborist who is developing mitigation measures to preserve as many trees as possible within the proposed dike footprint. However, data compiled by the City Naturalist and City Forester at Assiniboine Woods development (off Roblin Boulevard), which was built in the early 90's and is the only development which has attempted individual tree preservation inside a development, show that results have been mixed. In general, it appears that the elm trees are surviving and small to medium sized basswoods are surviving. Conversely, it appears that there is some dieback in the oaks and there are no surviving cottonwoods of any significant size or age adjacent to the homes.

Over the past 15 years, the City has had various subdivision designs and lot lines with respect to additions to the City's primary dikes. In the case of River Grove, the entire primary dike is part of the lot, with the lot line being at the base of the dike on the riverside. The City has easements on these properties to provide access to the primary dike and caveats on the title to ensure that no structures are erected on top of the dike within the easement area. In this instance, the lots

exceed 150 feet in depth – which provides adequate space for a rear yard in addition to the dike footprint.

In order to preserve as much of the river bottom forest as possible, a similar arrangement, at the request of the applicant, was deemed to be acceptable, provided that the primary dike is adequately protected through similar easements and caveats on private lands.

However, it appears as if this design is not possible given the current configuration of riverfront lots. To that point, the depth of riverfront lots, which is approximately 120 feet deep, is not adequate to accommodate the dike footprint– which requires up to 130 feet, in addition to the requirements for the house and front and rear yards.

6. ***Riverbank stability***

The current proposal has identified that a portion of the primary dike will be located adjacent to a section of the riverbanks that is actively eroding. To date, the developer has not proposed any erosion protection measures to stabilize this section of bank. As requested by the applicant, the City's Flood Protection Engineer and Riverbank Management Engineer have reviewed past primary dike construction practices with respect to a requirement for bank stabilization works. They conclude that the proposed development NOT proceed without implementation of stabilization measures coincident with flood protection to the satisfaction of the City that provides long-term protection to the actively eroding section of riverbank. (full report in Appendix 6)

Recommendation

In light of the above, the Planning and Land Use Division is recommending that this item be adjourned until a future date to be determined by the applicant and the City jointly in the hope that additional time may bring resolution of issues to the satisfaction of the applicant and the City, so that this development may be proceeded with in the future in a modified form.

It should be noted that an adjournment of this matter does not necessarily impact the future development of the proposed High School. The High School may proceed with only a conditional use approval. A special servicing agreement can guide the financing and coordination of infrastructure that would be required to accommodate the school.

Therefore, the Planning and Land Use Division recommend that the item be adjourned for the following reasons:

1. The City Naturalist has identified the river bottom forest habitat as being of extraordinary quality and recommended for preservation in its entirety (6.5 acres) through dedication.
2. Two proposed public reserve corridors do not meet the City's public open space requirements at this time.
3. A second point of access cannot be provided until there is resolution with the easement across the road right of way.

4. The proposed 90 degree turning radius at Rivergrove Drive does not meet City standards and is not acceptable to the Public Works Department
5. The riverfront lot depths will require modification to accommodate the dike completely within the private lots – leaving no disturbances within the public reserve land.
6. The City's Flood Protection and Riverbank Management Engineers have identified a need for the applicant to stabilize the eroding section of riverbank consistent with bank stability standards established for construction of Primary Dikes along the City's waterways. Such works are to be designed and reviewed to the satisfaction of the City.

Should the Community Committee wish to approve the development application, the following conditions should be considered:)

Recommended Conditions of Approval

I. That the plan of subdivision proposed under File No. DASZ 10/05 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 10/05, attached hereto and dated June 6, 2005, for registration in the Winnipeg Land Titles Office, subject to the following:

A. The Developer be required to enter into a Development Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated May 31, 2005;

II. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

III That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File No. DASZ 10/05, attached hereto and dated June 6, 2005, to an "R1-4" Residential District, a "C2" Commercial District, and a "PR1" Parks and Recreation District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to, to include the following conditions:

A. That for the land zoned "C2" Commercial, the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location, design, and materials of the proposed building, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping, and signage to the Lord Selkirk – West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property, and Development.
B. That the developer erect two, 4 foot by 8 foot signs on the vacant commercial lands indicating and location and zoning of the commercial property; and plans for the signs shall be submitted to the Lord Selkirk –West Kildonan Community Committee for approval prior to their erection; and the signs shall be maintained

to the satisfaction of the Director of Planning, Property, and Development until such time that the land is either developer or rezoned for non-commercial use.

IV. That, in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

V. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

VI. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

VII. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office, and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands **provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.**

VIII. The Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

IX. In the event that the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

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

Report Prepared by: Michael Robinson, AICP
PPD File # 3.322

Revised Schedule "A"

By-Law No. _____

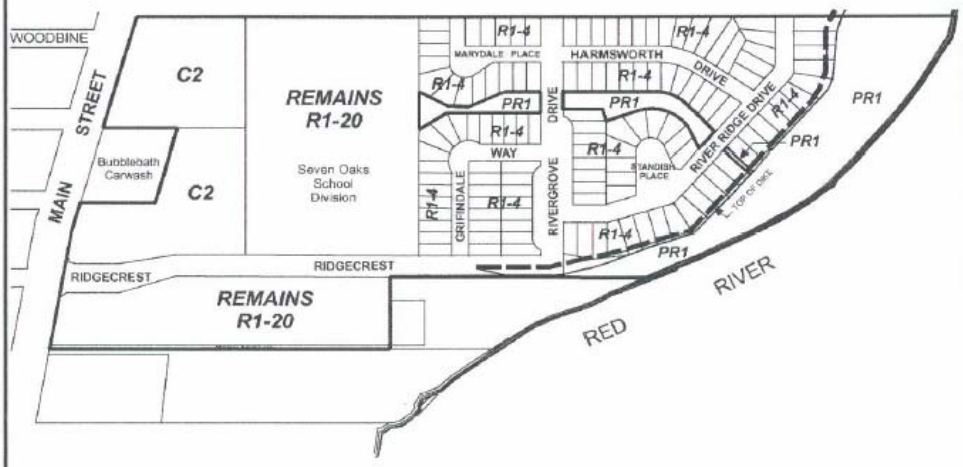
File No. **DASZ 10/05**

Atlas Sheet No. **S28**

LORD SELKIRK WEST KILDONAN COMMUNITY

Explanation

An application for the approval of the plan of subdivision shown outlined below and for a proposed zoning change to By-law No. 6400/94 by rezoning the land located on the east side of Main Street, south of Commonwealth Avenue from an "R1-20" RESIDENTIAL DISTRICT to a "PR1" PARKS AND RECREATION DISTRICT, an "R1-4" RESIDENTIAL DISTRICT and a "C2" COMMERCIAL DISTRICT as shown outlined below.



Revised Schedule "A" to the report to the Lord Selkirk-West Kildonan Community Committee for File No. DASZ 10/05 dated June 16, 2005

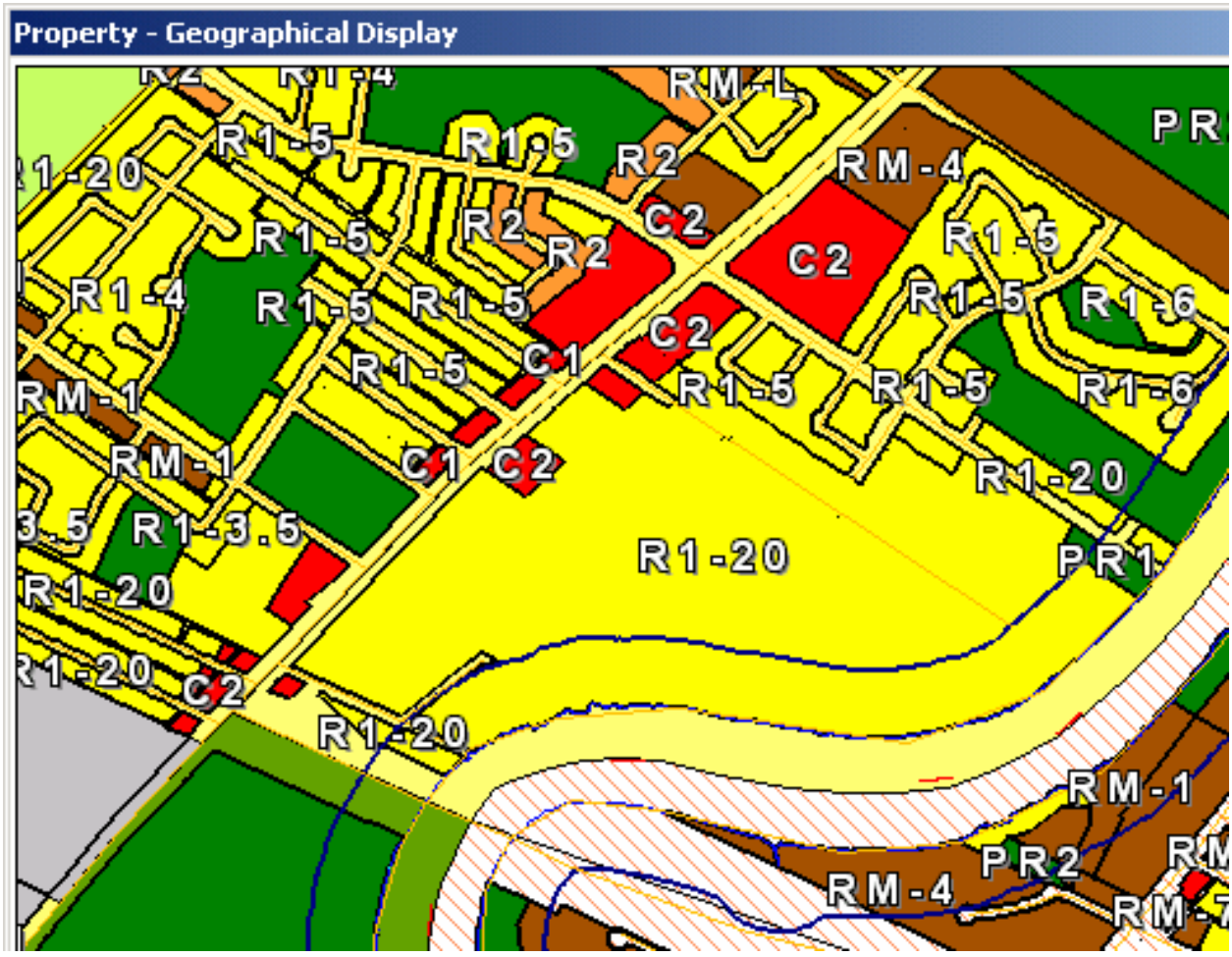
THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Appendix 1
Aerial Photo (Flown in 2002)



Appendix 2
Zoning Map



Appendix 3
Assessment of river bottom forest from Cheryl Heming, City Naturalist

From: Cheryl Heming, City Naturalist
To: Lord Selkirk-West Kildonan Community Committee

This 3.4 hectare parcel of river bottom forest has been graded as B quality habitat. This translates to mean that the forest is a good quality river bottom forest representative of the historic forests that lined the Red River presettlement.

While the tree and shrub layer was representative, there was some disturbance in the understorey or ground layer of the forest which means that in some patches, the native herbaceous plants have been replaced by non-native species. This is not unusual in remnant urban forests because of historical pressures of grazing and urbanization. All forests preserved within the last decade inside the City of Winnipeg have had some disturbance to the understorey even the recently preserved Bois Des Esprits.

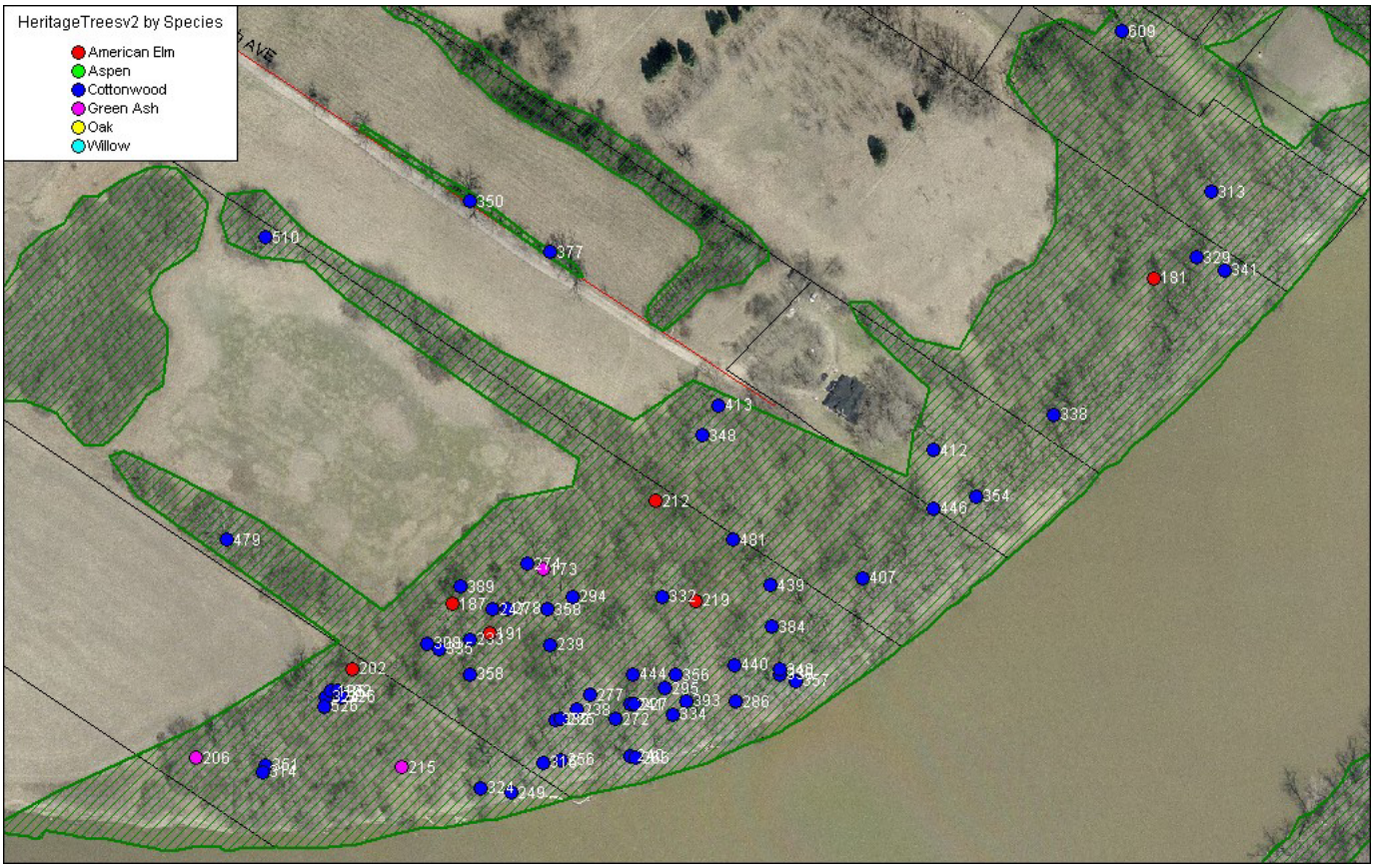
One of the unique features of this forest is the impressive size of some of the dominant native trees, in particular the presence of the large sized cottonwoods throughout the site. At least 5 of these Cottonwoods appear to be over 100 to 150 years old and in good condition. Two more are located at the end of Commonwealth road right-of way but we believe they are on the Lehman property and two are located in the two rows of trees west of the forest. Cottonwoods of this size are not common in riparian or river edge natural areas across the City as a rise in the beaver population in the 1990's destroyed many adjacent to the water's edge. I will have digital information and locations on all the cottonwoods within a day or so.
There are also a number of large Green Ash and American Elm trees that are of significant age and in good health in this river bottom forest.

The unique appearance of a nesting pair of Bald Eagles at the south end of the river bottom forest in the site is a first to my knowledge in this city. According to the Canadian Wildlife Service, this is a rare species.

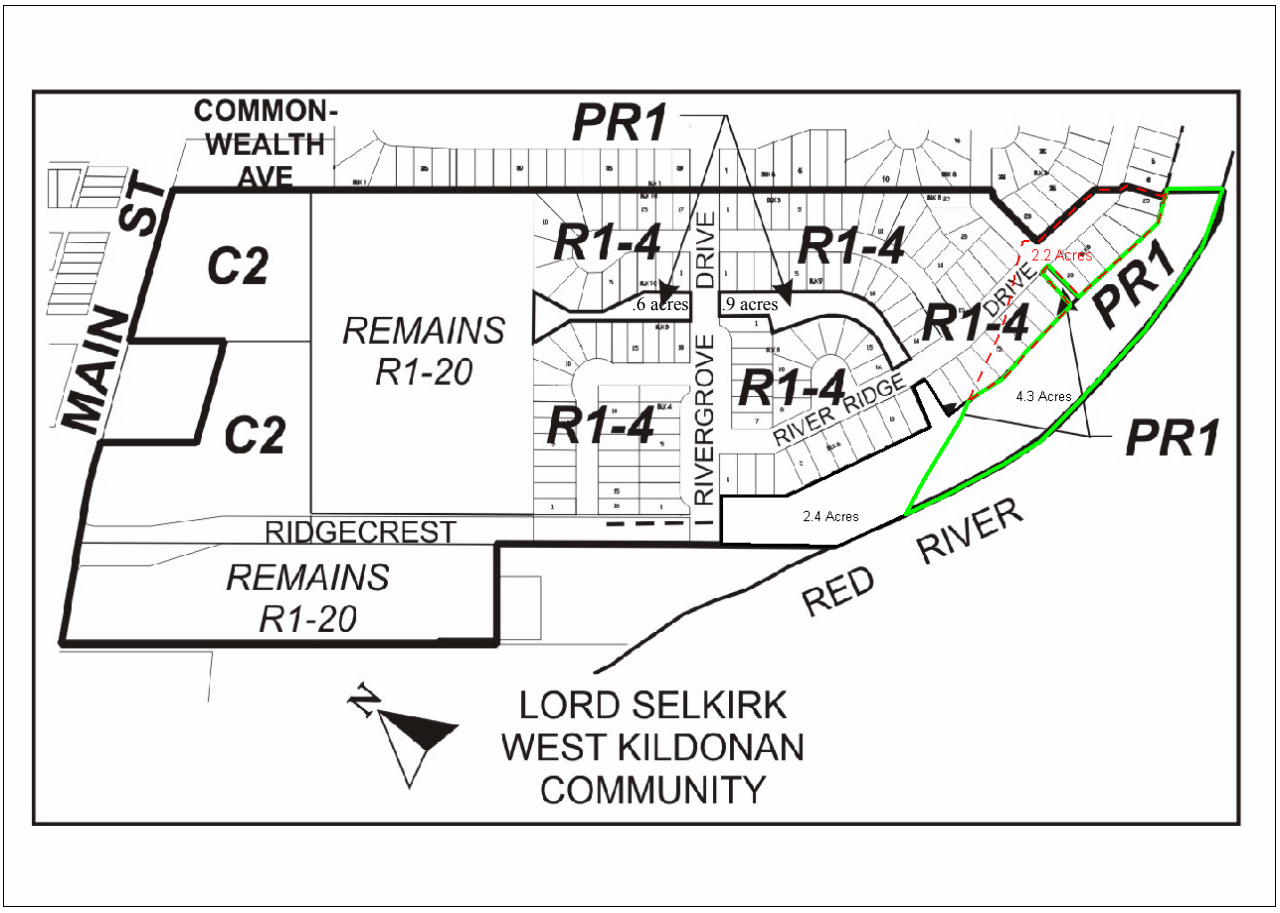
I recommended this 3.4 hectare forest for preservation over a year ago and recommend it again now.

Cheryl Heming
City Naturalist

Appendix 4:
Significant trees within river bottom forest



Appendix 5:
Proposed dedication for public reserve.
(The dashed area is river bottom forest requested by the City for dedication.)



Appendix 6
Report of the City Riverbank Management Engineer and Flood Protection Engineer

Date: May 16, 2005

To: Ellen Axelrod, Subdivision Officer

From: Don Kingerski, P. Eng., Riverbank Management Engineer

Grant Mohr, P.Eng., Senior Planning Engineer – Land Drainage and Flood Protection

RE: **Proposed subdivision and rezoning on land located on the east side of Main Street south of Commonwealth Avenue (File No. DASZ 10/05)**

Proposed subdivision and rezoning of land located on the east side of Main Street south of Rivergrove Drive (File No. DASZ 11/05)

Lord Selkirk-West Kildonan Community

The attached brief has been prepared in response to questions raised by the Lombard North Group concerning development and application of riverbank stability standards for construction of the City's primary dike system. Recommendations are also made for proposed Primary Dike construction in conjunction with submitted plans of subdivision and rezoning of the above referenced lands.

_____
Don Kingerski, P.Eng.
Riverbank Management Engineer
Planning, Property & Development Department

_____
Grant Mohr, P.Eng.
Senior Planning Engineer – Land Drainage and Protection
Water & Waste Department

DEK/GMfz

INTRODUCTION:

Pursuant to a request from Lombard North Group, the following reviews the development and application of riverbank stability standards to the construction of new components of the City's primary dike system. This system is commonly referred to as the Primary Line of Flood Defence (PLD). This brief reviews construction practices over the last 20 years, confirms existing practice for reconstruction, extension and construction of new sections of the PLD, and provides recommendations in respect to construction of a Primary Dike for the proposed plans of subdivision filed under DASZ 10/05 and DASZ 11/05 respectively

BACKGROUND:

Lombard North Group has submitted an application for the subdivision and rezoning of lands located on the east side of Main Street south of Commonwealth Avenue (DASZ 10/05) and south of Rivergrove Drive (DASZ 11/05). The lands are located on the riverside of the City's primary dike that runs along Main Street. A portion of the area is below the legislated Flood Protection Level (FPL) of 229.3 m and will require flood proofing pursuant to the *Designated Floodway Fringe Area Regulation 266/91*.

To provide flood protection, the applicant has proposed the construction of a primary dike for flood protection with the dike tying into higher ground towards Main Street or potentially the northern leg of the dike tying into an existing section of primary dike in the Rivergrove Subdivision. To incorporate the primary dike into the development, the landside of the dike will be shallow sloped to incorporate it into the lot grading works for the perimeter residential lots.

Any change to the City's PLD system must be located, designed and constructed to the standard and elevation approved by the City and The Provincial Dyking Commissioner. The City requires that their PLD system be constructed to a higher level of flood protection than the local FPL. The proposed dike will be built to 229.9 metres, which would provide 1:700 year flood protection with the expanded Floodway (or above 1:300 year the flood protection level for the existing Floodway).

Riverbank stability has always being a consideration with the City's primary dike system since its initial construction in the fall of 1950. At that time, the designers factored in riverbank erosion and located the majority of the PLD with a sufficient setback to avoid riverbank stability issues. In locations where it was impossible to do so, as was the case with the PLD near the St. Boniface Hospital, the riverbank was rip rapped.

Since the early 90's, the City's Waterway Authority has adopted a more quantitative standard for assessing riverbank stability including a fundamental requirement that bank erosion protection measures be applied to maintain the integrity of the bank. The adopted riverbank stability or geotechnical standards take into consideration stability conditions along the affected section of riverbank with the assurance that, under post dike construction conditions, the riverbank and adjacent primary dike will remain in a stable condition for the long term. In unstable and

actively eroding bank areas, this has led to the implementation of riverbank stabilization measures coincident with dike construction.

For the proposed River Ridge Subdivision, a portion of the dike will be located adjacent to a section of actively eroding bank. In this area, the proponent's Engineering Consultant, UMA, has recommended locating the dike at a prescribed offset from the riverbank where the present level of stability is considered acceptable. In view that no attendant bank stability improvements are proposed, the riverbank will be subject to ongoing processes of erosion. On the basis of past history of bank movements and erosion rates, UMA has estimated that the factor of safety of the dike will meet the City's current geotechnical criteria for about 50 years.

At a meeting on April 12, 2005 between City administration and representatives from Lombard North Group and UMA, the City's Riverbank Management Engineer and Land Drainage and Flood Protection Planning Engineer indicated that the eroding section of riverbank should be protected coincident with primary dike construction. Lombard North Group indicated that such riverbank protection works were not required with construction of the primary dike for the Rivergrove subdivision approximately 20 years ago and requested that the City substantiate their position in this matter by citing other developments where this has been a requirement.

RIVERBANK STABILITY:

The intent of the City's geotechnical design criteria is to ensure that a stable bank condition is maintained over the long term with the primary dike in place. The City's primary dike system and the Red River Floodway are designed to effectively protect the City from a major flood event. As new subdivisions are proposed adjacent to the rivers, riverbank stability conditions are an important consideration in the design of these dikes where erosion protection works and, on occasion, extensive bank stabilization measures are required to maintain riverbank stability and integrity of the dike for the long term.

While past riverbank performance can be established from review of aerial photography interpretation, this does not form the engineering basis for siting primary dike locations and identifying future performance.

UMA has determined that riverbank stability improvements are not required in conjunction with dike construction for the proposed subdivisions. The Consultant concludes that on the basis of historical erosion rates, the primary dike system should have an acceptable level of stability compliant with the City's geotechnical design criteria over the next 50 years. The City contends that future erosion cannot be predicted with a level of certainty over the next 50 years on the basis of past average erosion rates. Also, from an empirical perspective, it has generally been observed that the frequency of bank failures in the City has not only increased in recent years, but also, the magnitude and resultant loss of riverbank property has been more pronounced.

PRIMARY DIKE CONSTRUCTION IN PAST 20 YEARS:

The following are examples of more recent additions to the City's primary system as newer subdivisions near the river have been developed:

- Rivergrove Subdivision (1985) – new primary dike
- Plaza Drive @ Bishop Grandin Blvd. (1986) – new primary dike
- Normand Park Subdivision (1987) – new primary dike
- River Pointe Subdivision (1987) – new primary dike
- Pioneer Blvd. (1998) - rebuild of existing dike including bank stabilization.
- Waterfront Drive (2002) – rebuild of existing dike including bank stabilization.

As stated earlier, since early 1990, quantitative riverbank stability standards were being developed and new projects such as Pioneer Blvd and Waterfront Drive incorporated bank stability considerations into their designs.

Under current standards, the Normand Park dike would be considered deficient, as it is located along an actively eroding section of riverbank. The City has identified that approximately 600 m of bank will require shoreline protection in the near future to arrest ongoing bank erosion and bring the primary dike up to current standards.

SECONDARY DIKE ENHANCEMENT PROJECTS:

The City (as part of a tripartite agreement) has just completed a 5-year program to either construct new or upgrade a number of secondary dike areas within the City of Winnipeg. As part of this program bank stabilization was a prerequisite to uplands dike construction in the following areas:

- Kingston Crescent (2000) – secondary dike including bank stabilization
- North Drive (2001) – secondary dike including bank stabilization
- Lord Avenue (2002) – secondary dike including bank stabilization

<u>OTHER FLOOD PROTECTION:</u>

The developer of the Assiniboine Woods Subdivision (1992) was responsible for all works associated with flood proofing lands within the designated floodway fringe area. In this case, fill

was deposited in compliance with flood proofing legislation and included stabilization of a 300-metre section of unstable riverbank.

In 2003, a developer stabilized a 120-metre section of bank along the Red River to facilitate flood protection works and development of a condominium complex at 1960 St Mary's Road.

CONCLUSIONS:

Bank stability standards for construction of dikes along our waterways have evolved over time to reflect advancements in quantifying bank stability and our understanding of mechanisms controlling riverbank stability performance. Since the early 90's, these standards have been consistently applied to primary dike construction where bank stabilization and/or river edge erosion protection has been required in unstable bank areas in conjunction with flood protection.

The City recognizes in some areas protected prior to adoption of current standards that consideration will now need to be given to providing riverbank stabilization protection to comply with these standards. It is not considered in the best interest of the City to approve new sections of primary dike adjacent to unstable sections of riverbank unless reasonable measures have been taken to maintain riverbank stability in the long term.

It should also be noted that the ultimate approval of a change in the City's Primary Line of Defense (PLD) rests with the Provincial Dyking Commissioner. The Commissioner has indicated to the City that it is unlikely that the current proposal would not be accepted without adequate riverbank stabilization measures being in place.

RCOMMENDATION:

The City recommends that the proposed development pursuant to DASZ 10/05 and DASZ 11/05 respectively NOT proceed without implementation of stabilization measures coincident with flood protection to the satisfaction of the City that provides long-term protection to the actively eroding section of riverbank.

May 12, 2005

Exhibit "10" referred to in File DASZ 10/2005 [c/r DAV 132315/2005D and DCU 114829/2005D]

Re: Proposed subdivision and rezoning on land located on the east side of Main Street south of Commonwealth Avenue – DASZ 10/05

An application has been submitted by Lombard North Group (David Palubeski) to subdivide and rezone land located on the east side of Main Street south of Commonwealth Avenue.

It is recommended that the plan be amended if and as required to comply to the following:

A. The Developer shall provide and legally open, at no cost to the City, property required for a right-of-way corner-cuts in the southeast and northeast corners of the intersection of Rivercrest Avenue and Main Street as determined by and to the satisfaction of the Director of Public Works. These corner-cuts are to be provided in addition to the Main Street widening to be provided pursuant to Clause B. below.

B. The Developer shall provide and legally open, at no cost to the City, property required for a 2.743m widening to the Main Street right-of-way along the full length of the subject property abutting Main Street.

C. Ridgecrest Avenue immediately east of Main Street is to be established with a 32.0m in width right-of-way for a distance of at least 60.0m and then transition to a width of 22.0m through an additional 60.0m, the centreline of Ridgecrest Avenue east of Main Street is to be coincident with the centreline of Ridgecrest Avenue west of Main Street, all to the satisfaction of the Director of Public Works.

D. Curves in the alignment of the collector street, Ridgecrest Avenue/Rivergrove Drive are to be established with a minimum radius centreline of 170m and adjacent curves are to be separated by a minimum tangent section of 60.0m to the satisfaction of the Director of Public Works. The 90° deflection where Rivercrest Avenue and Rivergrove Drive meet is unacceptable. It would result in difficult manoeuvring for larger vehicles, transit buses, school buses and delivery vehicles, and potentially unsafe operating conditions for traffic in general. Motorists on residential collector streets to not expect a sharp deflection such as this and therefore the potential for incidents will be increased.

E. Proposed frontage roads are to be accommodated with a minimum right-of-way width of 9.0m and the terminus points of the frontage roads are to be located and designed to the satisfaction of the Director of Public Works.

F. The proposed cul-de-sac west of Rivergrove Drive along the north limit of the proposed subdivision is to be reconfigured to a crescent with a 90° deflection to extend northerly into the adjacent development so as to reduce the length of the cul-de-sac being proposed under that application, DASZ 11/05. The cul-de-sac being proposed under DASZ 11/05 is in excess of 250m in length which is more than twice the City's guideline for cul-de-sac length of 105m.

G. By including the river bottom forest as public open space to the satisfaction of the Director of Public Works and the Director of Water and Waste.

H. By adjusting the size of the lots adjacent to the proposed Primary Dike in order to accommodate the said dike within the private properties and to avoid encroachment into the river bottom forest to the satisfaction of the Director of Public Works and the Director of Water and Waste.

It is recommended that approval of the amended plan be subject to the Developer entering into a Development Agreement as follows:

1. The Developer shall pay its share of the cost of the following improvements at and in the vicinity of the intersection of Rivercrest Avenue and Main Street on an area basis, as determined by the Director of Public Works:
   a) a 3.5m in width by 40.0m in length southbound left turn storage lane, plus upstream transition and all related works;
   b) right-turn channelization in the southeast and northeast corners of the intersection, modifications to the existing median opening as may be required and modifications to Ridgecrest Avenue west of Main Street as may be required to be compatible with Ridgecrest Avenue east of Main Street and all related works;
   c) the full cost of the installation of traffic control signals and all related works, including, but not necessarily limited to, pedestrian and vehicular actuation, interconnection to adjacent traffic control signals and audible pedestrian signals;

   The Developer shall finance and/or construct the above-referenced works as and when determined by and to the satisfaction of the Director of Public Works.

2. The Developer's share of the cost of services as determined in 1. above shall be off-set against the cost of services to be financed and/or constructed pursuant to 1. above and the City shall reimburse the Developer for the difference as determined by the Director of Public Works as it collects from the other benefiting lands in accordance with the City's Development Agreement Parameters prevailing at the time of reimbursement.
3. The Developer shall pay to the City, in cash, on demand its share of the cost of the following services previously installed or to be installed by the City in Main Street:

   a) a 4.0m in width by 200mm in thickness portland cement concrete lane of pavement and related works;
   b) a 1.5m in width by 100mm in thickness portland cement concrete sidewalk in the east boulevard;
   c) street lighting in the east boulevard;
   d) landscaping in the east boulevard;

   all as determined by the Director of Public Works.

4. The Developer shall, at no expense to the City, construct portland cement concrete pavement to widths of 7.5m, 8.0m and 10.0m and thicknesses of 150mm and 200mm respectively in all streets within the proposed subdivision and all related works including, but not necessarily limited to boulevard landscaping and ornamental lighting, all as determined by and to the satisfaction of the Director of Public Works.
5. The Developer shall, at no expense to the City, construct a portland cement concrete sidewalk to a width of 1.5m by 100mm in thickness on both sides of Ridgecrest Avenue/Rivergrove Drive, except where frontage roads are provided, as determined by and to the satisfaction of the Director of Public Works.
6. The Developer shall, at no expense to the City, construct portland cement concrete pavements to a width of 6.0m by 150mm in thickness within the proposed frontage roads within the proposed subdivision, as determined by and to the satisfaction of the Director of Public Works.

7. The Developer shall, at no expense to the City, cause to be installed standard reflectorized permanent street name signs at each new intersection within or adjacent to the proposed subdivision, as determined by the Director of Public Works.
8. The Developer shall, at no expense to the City, construct a cul-de-sac type vehicle turnaround at the terminus of each temporarily dead-ended street and provide any right-of-way or easements necessary to accommodate same, all as determined by and to the satisfaction of the Director of Public Works.
9. The Developer shall, at no expense to the City, erect and maintain barricades and signing across the full width of any temporarily dead-ended streets, due to phasing of development, immediately upon completion of the paving or when house construction has begun, whichever is sooner, as determined by and to the satisfaction of the Director of Public Works.
10. The Developer shall ensure that two paved means of vehicular access are available at all times through all stages of development of the proposed subdivision to the satisfaction of the Director of Public Works. This may require the construction of temporary roadways and the provisions of easements or right-of-way therefore.
11. The Developer shall, at no expense to the City, provide underground electrical and telephone services to serve the proposed subdivision and will pay the full cost to convert any existing overhead services within the proposed subdivision to underground.
12. The Developer shall pay all costs associated with the installation and/or relocation of street lights and other utilities made necessary as a result of or required to accommodate works, which are required by the Developer to serve the proposed subdivision, as determined by and to the satisfaction of the Director of Public Works.
13. The Developer shall be responsible to control and to initiate the clean up of litter and refuse from the contractors and builders for this development, both on-site and off-site, during the installation of services and construction of buildings, until substantial completion of all construction. The clean up of litter and refuse shall be done on a regular basis as determined by the Director of Public Works. This shall include initiating action and assuming any costs in remedying the situation to the satisfaction of the Director of Public Works.
14. The Developer shall ensure that construction traffic uses access routes as determined by the Director of Public Works. The Developer shall maintain, at no expense to the City, the access routes in a clean, dust free and safe condition, free of dropped and tracked-on mud, and shall undertake regular scraping and sweeping of streets until building construction, including landscaping is complete, all as determined by and to the satisfaction of the Director of Public Works.
15. The Developer shall, at no expense to the City, construct all watermains, wastewater sewers and land drainage sewers (including an outfall to the Red River) required to service the proposed subdivision and adjacent lands. Further, the Developer shall pay for its share of the regional land drainage system. The construction of any land drainage trunk works, as determined by the Director of Water and Waste, will be credited toward this charge.
16. The Developer shall, at no expense to the City, construct a Primary Dike to protect the proposed development from flooding in accordance with the requirements of the Dyking Commissioner and the Director of Water and Waste. This shall include constructing the dike to the 1:700 year flood protection level (with expanded Floodway) and installing riprap as required to arrest shoreline erosion and protect the long-term performance of the dike. All plans and specifications for the proposed Primary Dike shall be submitted to the Water and Waste Department for review and approval prior to the release of the subdivision mylars.

17. The Developer shall provide a lot grading plan prepared by a municipal engineer and shall grant any easements as may be necessitated by the design.
18. The Developer shall pay the full cost of engineering services provided by or on behalf of the City in connection with the installation of all services required to serve the proposed development.
19. The Developer shall pay $1,200.00/acre to defray the City's administration and related costs associated with the preparation and implementation of the development agreement.
20. The Developer shall dedicate the river bottom forest within the proposed subdivision as determined by the Director of Public Works and the Director of Water and Waste to the City as public open space, the area of which is greater than 8% of the land within the proposed subdivision. The Developer's obligations for landscaping and servicing public open space in accordance with City policy shall be deemed to be satisfied by the dedication of river bottom forest in excess of 8% of the land within the proposed subdivision.

THIS REPORT SUBMITTED BY:

Administrative Coordinating Group
File No. AG 10/05
May 31, 2005

"Original signed by E.L. Carrière"
Land Development Engineer

"Original signed by K.T. Raban"
Water and Waste Department

"Original signed by R.J. Hartmann"
Public Works Department
Transportation Division

Exhibit "15" referred to in File DASZ 10/2005 [c/r DAV 132315/2005D and DCU 114829/2005D]

THIS IS E 3IT "15" REFERRED TO
IN FILE No. DASZ 10/05
DATED THIS 14 DAY OF June 2005
A. Simms
CLERK

LOMBARD NORTH GROUP (1984) LTD.

PLANNERS AND LANDSCAPE ARCHITECTS

Submitted by
David Palubiski
on June 14, 2005

June 14, 2005

Chair and Members
Lord Selkirk Community Committee
CITY Hall
510 Main Street
Winnipeg, Manitoba

RE: DASZ 10/05 and DASZ 11/05 Subdivision and Re-Zoning Application Plan

We have reviewed with our clients the City's strong desire to preserve more river bottom forest area than presently provided in the plan reviewed by community stakeholders in our second open house and submitted for consideration at today's public hearing by the West Kildonan-Lord Selkirk Community Committee.

In an effort to reconcile city wants and the economics of the developer's project, we looked at ways we could propose an alternate plan which increases open space dedication and does not compromise the potential economics of the project. We have developed an alternate plan for consideration. The alternate plan has been approved for presentation to the City by our Clients' Greenview Homes (DASZ 10/05) and Coral Reef Developments (DASZ 11/05).

The attached Amended Plan increases open space dedication from the original 7.1 acres to 9.8 acres. The additional open space dedication is composed of entirely river bottom forest area and increases the area of river bottom forest excluded from residential and dike development to 4.9 acres from 3.1 acres.

The cumulative changes made to our client's project to accommodate city open space river bottom forest requests represent:

- an open space dedication of 24%, over the Greenview net holdings after deducting the high school site;
- the loss of 884 feet of residential development frontage;
- increased dike length and construction costs; and

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- Additional unanticipated property development coordination expenses.

The neighbourhood planning challenge for both the City and Developer will be to bridge the gap between City wants and Developer financial resources given the stated position that the city has no funds to compensate the developer for the loss of the additional river bottom forest dedication.

Our clients' agreement to consider providing the additional river bottom forest and open space dedication substantially in excess of that conventionally sought by the City, is offered with the expectation they will receive considerations of a value from the City that re-balances the financial impact of dedication on the project. Our clients are aware compensation has been provided by the city in similar situations elsewhere in the City.

It possible for the City to provide credits under the Development Agreement which re-balances the economics of the project after expanding dedication without costs incurred by the city for compensation.

Our clients will proceed with the amended plan subject to approval of the following adjustments to the terms and condition of the ACG report dated June 7, 2005 as it relates to DASZ 10/05:

ACG Proposals for Plan Amendment DASZ 10/05:

Developer response to the ACG proposals for amending the plan of subdivision DASZ 10/05:

A. **Agree**- Developer shall provide rights of ways corner cuts at Ridgecrest and Main Street.

B. **Disagree –** Main Street has been widen and redeveloped as a four lane divided Arterial Street over 16 years ago with side walks and boulevard development we disagree there is a need to widen Main Street by 2.743 meters at this time.

C. **Agree** – Provide the 32 meter right of way and 60 meter transition for Ridgecrest Street extension east of Main Street.

D. **Disagree**- Community information meetings have confirmed there is no support for a 170 meter radius curve for Ridgecrest Street's connection with Rivergrove Dr. The High School and associated day care prefer the "L" intersection as a traffic calming technique by the school grounds. We will however design the radius of the street curve at the "L"

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intersection to ensure easy maneuvering for large vehicle turning.

E. **Agree** – To provide frontage roads as illustrated in the plan of subdivision with 9 meter right –of ways.

F. **Disagree** – Reconfiguration of the proposed Greenview cul-de-sac (Marydale Place) into a bay connecting to DASZ 11/05 proposed Attridge Lane is unacceptable because of the impact on lots. It is noted that DASZ11/05 provides an emergency access to Commonwealth from Attridge Lane.

G. **Agree with Modification** – Developer agrees to alter the plan and open space dedication to increase the river bottom forest dedication from 3.1 to 4.9 acres as illustrated in the Amended Plan attached hereto and request Community Committee of the Amended Plan for DASZ10/05 and related plan adjustments for DASZ 11/05.

H. **Agree** – Developer will extend the depth of the lots backing onto the dike so as to include the dike entirely within private property and agrees to register an easement over that portion of the dike representing the 4 meter crown and river side slope to permit City access for its purposes and to ensure compatible landscape development.

ACG Proposals for Plan Amendment DASZ 11/05:

Developer response to the ACG proposals for amending the plan of subdivision DASZ 11/05:

A. **Disagree-** Developer shall provide a secondary emergency access to Commonwealth from the east end of the proposed Attridge Cu-de-sac.
B. **Agree** – To connect Rivergrove Drive to subdivision with city's cooperation (as the land owner) and John Whiteway as the easement holder.
C. **Disagree** – Walkway to be developed as emergency access to Cul-de-sac.
D. **Agree with Modification** – To provide river bottom forest as illustrated in Amended Plan
E. **Agree** – Dike lot depth to be as in DASZ 11/05.

ACG Terms of Approval DASZ 10/05

In regard to ACG terms of development approval for DASZ 10/05 we request approval of the following adjustments in recognition of the

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financial impacts of the dedication requests made of the developer to preserve the river bottom forest area:

1. **Agree In Part** - The developers' responsibilities for their share of improvements at the intersection of Ridgecrest Avenue and Main Street be modified to:

    a) **exclude** contribution to the 3.5m by 40 m in length south bound left turn storage lane including up –stream storage These were previously installed by the City a number of years ago;
    b) **agree** to right turn channelization and modification to Ridgecrest on east of Main Street; exclude the cost of Ridgecrest modification west of Main Street. and to
    c) **Agree to provide a 50% contribution** not full cost of installing traffic control signals and related works including pedestrian and vehicle actuation, interconnection to adjacent signals and audible pedestrian signals at Main and Ridgecrest Intersection.

2. **Agree** - as modified under comments related to item #1 above with the understanding that the contribution towards costs benefiting the area east of Main Street be allocated on an area basis after deducting dedication lands.

3. **Exclude-** The developers not be required to pay for services previously installed in Main Street by the City. These services include;

    a) a lane of pavement 4.0m in width by 200mm in thickness and related works;
    b) a sidewalk in the east boulevard,
    c) street lighting and
    d) landscaping in the east boulevard;

4. **Agree** – to concrete pavement standards and related works;

5. **Agree**- sidewalk requirements.

6. **Agree** – Frontage road standards

7. **Agree**- Street sign standards

8. **Agree**- Cul-de-sac turn around standards

9. **Agree** – To temporary barricades and related works.

10. **Agree as Modified** – To providing two means off access to project development phases prior to school and house occupancy.

11. **Agree** – To underground utility services.

12. **Agree** – To street light and utility relocation costs as required.

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13. **Agree** – To site litter management and clean up during construction of services and houses;

14. **Agree** – to the designation of a construction traffic route.

15. **Agree as Modified** – To construction of underground services and outfall. It being agreed any over-sizing of city services benefiting other lands will be apportioned among land owners after netting out open space land dedication.

16. **Agree in part** – Developer to construct the primary dike to the 1:700 year flood. **Exclude as a developer obligation the installation rip-rap** along the south riverbank shoreline. The location of the dike has been designed by the developers' engineers UMA , to provide a 100 year riverbank erosion safety margin, assuming historical erosion rates quantified for the last 50 years continue into the future;

17. **Agree** – Lot grading plans

18. **Agree** – to pay full cost of engineering services.

19. **Exclude** – Developer to be forgiven the City's administration charge of $1,200 per acre for the development agreement implementation.

20. **Agree** – the Developer undertakes to dedicate more than 10 % dedication of land as shown in the Amended Plan as attached hereto.

ACG Terms of Approval DASZ 11/05

In regard to ACG terms of development approval for DASZ 11/05

The terms of approval for DASZ 11/05 numbered items 1 to 20 inclusive are similar to the terms for DASZ 10/05 (although the numbering system is slightly different. The developer's position on the terms of approval for similar items is the same for DASZ 11 as for DASZ 10 /05. The DASZ 11/05 developer Coral Reef Holdings wishes to confirm under ACG item #18 that dedication lands shall be as illustrated in the Amended Plan and any cash dedication payable under DASZ11/05 be allocated to assist defray open space costs in DASZ 10/05.

Additional Proposals by the Developer of DASZ 10/05

21. The Developer will contribute towards shoreline rip rap in exchange for City lands fronting Red River Boulevard and located east of Rivergrove Dive

22. The City assume maintenance responsibility for the riverbank park and river bottom forest upon registration of the plan of subdivision and maintenance responsibility for the other dedicated open space areas after landscape, walkway and play structure improvements

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have been completed subject to standard contractor warranties for good workmanship;

23. The Developer's responsibility for trail development within the River bottom forest area be limited to the cost of developing a low impact natural trail to be designed in consultation with the City Naturalist and located below the elevation of the crest of the dike;

24. The City agrees that any cash dedication that may be payable from DASZ 11/05 or cash dedication from future development of other private lands within the RiverRidge Concept Plan area will be earmarked for investment in the RiverRidge open space network in order to assist fund:
    - develop the pathways and sidewalks linking RiverRidge neighbourhoods to the river park and proposed high school sports grounds;
    - open space landscaping, lighting and a children's play structure; and to
    - develop river bank pathway connections linking RiverRidge to McBeth Park, Rivergrove and Kildonan Park;

25. The allocation of infrastructure costs such as the trunk land drainage sewers, stormwater outfall, the Ridgecrest and Main Street intersection works, including right turn channelization in the southeast and northeast corners of the intersection be apportioned among the RiverRidge development lands based upon the calculation of net developable area after deducting open space dedication lands;

26. The Developer has had discussions with private property owners to extend the primary flood protection dike across private lands north of the development areas represented by DASZ 10/05 and DASZ 11/05. This may be completed by way of easement now and later by way of dedication as these private lands are developed in the future. It is important for the purpose of securing private property owner approvals for alignment of the dike that we confirm in principle the dike route as part of DASZ 10 and 11/05. Therefore we request the City confirm in principle its agreement to:

    i) Approve the primary dike extension onto private lands as generally illustrated in the alternate plan attached;
    ii) Register a dike easement agreement and to cooperate with the developers and three private property owners (Lehmann, Whiteway and Draco Developments) located north of the development areas represented in DASZ 10 and 11/05, in coordinating the registration of the private dike easements;
    iii) Approve the alignment of the primary dike across city lands as illustrated in the Amended Plan and located on the south side of Red River Boulevard
    iv) Recover for reimbursement to the Developers' of DASZ 10 and 11/05 the proportionate share of dike construction costs as certified by the project engineer and benefiting the three aforementioned private land owners.

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27. The subdivision changes represented by the Amended Plan attached hereto do not prejudice the rights of any person and the plan as advertised may be corrected to reflect the Amendments agreed.

I wish to thank you in advance for your consideration of our clients' Amended Plan. Timing is of critical importance to our clients in order to assist the Seven Oaks School Division meet its timeframe for school construction start. We would be very grateful to receive approval of the Amended Plan by Council's committees so that we may receive concurrent with committee report approvals, the approval of the related by-laws for the plan of subdivision and zoning at Council's July 27th 2005 meeting.

Yours truly,
Lombard North Group (1984) Ltd.,

David Palubeski, M.C.I.P.
President

Attach.

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Exhibit "16" referred to in File DASZ 10/2005 [c/r DAV 132315/2005D and DCU 114829/2005D]

