Minute No. 49
Report - Standing Policy Committee on Property and Development – November 1, 2005

Item No. 6 **Subdivision and Rezoning - 740 John Bruce Road**
File DASZ 27/2004

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development that the application for subdivision and rezoning under File DASZ 27/2004 not be proceeded with.

Report - Standing Policy Committee on Property and Development – November 1, 2005

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,
That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 16, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee and submitted the matter to Council.

STANDING COMMTITEE RECOMMENDATION:

On November 1, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

On October 4, 2005, the Standing Policy Committee on Property and Development laid over consideration of the matter to its meeting on November 1, 2005.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2005, the Riel Community Committee did not concur in the administrative recommendation and recommended to the Standing Policy Committee on Property and Development that the application for subdivision and rezoning under File DASZ 27/2004 not be proceeded with.

On July 18, 2005, the Riel Community Committee further adjourned the public hearing to its meeting on September 13, 2005.

On June 21, 2005, the Riel Community Committee further adjourned the public hearing to its meeting on July 18, 2005.

On May 17, 2005, the Riel Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on June 21, 2005.

RE: **Subdivision and Rezoning - 740 John Bruce Road**
File DASZ 27/2004 [c/r DAV 314160/2004D]

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

Prepared by: **Marc A. Pittet, Clerk,**
Riel Community Committee

Report date: **September, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2005, the Riel Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development that the application for subdivision and rezoning under File DASZ 27/2004 not be proceeded with.

The Riel Community Committee provided the following supporting reason for its recommendation:

1. The Riel Community Committee did not agree with the administrative comments contained in the report from the Manager of Planning and Land Use dated May 10, 2005 and in the report from the Administrative Coordinating Group dated April 20, 2005.

PUBLIC HEARING SUMMARY

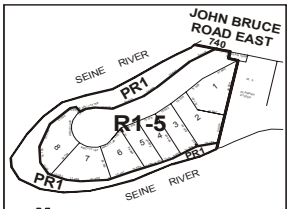
File: DASZ 27/2004 [c/r DAV 314160/2004D]

Before: Riel Community Committee
Councillor Magnifico, Chairperson
Councillor Swandel

Public Hearing: September 13, 2005
Community Committee Chamber, 219 Provencher Boulevard
July 18, 2005
St. Norbert Community Centre, 3450 Pembina Highway
June 21, 2005
Community Committee Chamber, 604 St. Mary's Road
May 17, 2005
Community Committee Chamber, 219 Provencher Boulevard

Applicant: Walter D. Rischuk

Subject:



APPLICANT: MR. W. RISCHUK
FILE: DASZ 27/04
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" SINGLE-FAMILY DISTRICT to an "R1-5" SINGLE-FAMILY DISTRICT and a "PR1" PARKS AND RECREATION DISTRICT. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : M. W. RISCHUK
N° DE DOSSIER : DALZ 27/04
PROJET : Demande d'approbation par le Conseil du plan de lotissement indiqué ci-dessus et proposition de modification du *Règlement municipal n° 6400/94* visant à changer le zonage des sols délinéés ci-dessus qui passeraient de la catégorie R1-20 (SECTEUR D'HABITATIONS UNIFAMILIALES) à la catégorie R1-5 (SECTEUR D'HABITATIONS UNIFAMILIALES) et catégorie PR1 (SECTEUR DES PARCS ET DES LOISIRS). **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 740 John Bruce Road

Exhibits Filed:

1. Application dated July 2, 2004
2. Notification of Public Hearing dated March 17, 2005
3. Manitoba Status of Titles 1966347, 1966348
4. Surveyor's Building Location Certificate and sketch dated August 15, 2003
5. Letter of authorization dated May 28, 2004 from Delle Bonneau to Walter Daniel Rischuk
6. Plans (3 pages)
7. Report from the Administrative Coordinating Group dated April 20, 2005
8. Report from the Manager of Planning and Land Use dated May 10, 2005
9. Inspection Report
10. Petition in opposition to the application purporting to contain the signatures of 213 area residents submitted by Bradley Brown
11. Presentation made by Bradley Brown at the Public Hearing on June 21, 2005
12. Presentation and Photographs submitted by Delle Bonneau at the Public Hearing on July 18, 2005
13. Petition in opposition to the application purporting to contain the signatures of 56 area residents submitted by Bradley Brown
14. Presentation in support of the application and supporting documentation submitted by Delle Bonneau and Rusty Rischuk at the Public Hearing on September 13, 2005
15. Petition in opposition to the application purporting to contain the signatures of 110 area residents and supporting documentation submitted by Bradley Brown at the Public Hearing on September 13, 2005
16. Presentation in opposition to the application and photograph submitted by Guy Prefontaine at the Public Hearing on September 13, 2005
17. Presentation in opposition to the application submitted by Judy Aubert at the Public Hearing on September 13, 2005
18. Presentation in opposition to the application submitted by Dan Rachiele at the Public Hearing on September 13, 2005

REPRESENTATIONS:

In Support:
Delle Bonneau
Frank Manfredi
Walter D. Rischuk
Paul Sunderland

In Opposition
Gary and Judy Aubert
Om Bhatnagar
Bradley and Rosemin Brown
Tara Brown
Richard Campeau
Barbara Cape
Michael Collins
Randy Dandenault
M. Galloway
Silvano Giacobbo
Colleen Haigh
Edward Harlow
Madeleine M. and Harold Hicks
Manfred Jager
Maggie Keller
Jules Legal
Kurt and Corry Lehmann
Val McIntosh
Ron Mondor
Peter and Joanne Pearson
Guy Prefontaine
Marianne Racett
Dan Rachiele
David Roberts
Silvia Rodriguez
Norma Sanders
Sheryl St. Hilaire
Edward Traa
Bill Young
Craig Young

For Information:
David Danyluk
Paul and Norm Mackin

For the City:
Ernie Carriere, Land Development Engineer, Planning, Property and Development Department
Glenn Halldorson, Real Property Office, Planning, Property and Development Department
Kevin Lalor, Planner, Planning, Property and Development Department
Chris Torpey, Land Development Administrator, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING

September 13, 2005
The applicant, Walter D. (Rusty) Rischuk, accompanied by Delle Bonneau, appeared in support of the application, provided a brief overview of the proposal and submitted supporting documentation (filed as Exhibit 14). Ms. Bonneau stated invitations had been extended to area residents and three thousand (3,000) flyers were sent to Royalwood and neighbouring communities providing details on an open house. Ms. Bonneau also stated that many people who contacted her were not opposed to the development but some area residents did raise concerns regarding safety and many asserted their desire to preserve parkland. In response to a question from Councillor Swandel, Ms. Bonneau replied that it was the applicant's intention to proceed with the subdivision of eight (8) lots.

Bradley Brown appeared in opposition to the application and submitted supporting documentation and a petition in opposition to the application purporting to contain the signatures of one hundred and ten (110) area residents which have been filed as Exhibit 15. Mr. Brown stated that the majority of area residents were still opposed to the development and reiterated concerns regarding density and safety.

Guy Prefontaine appeared in opposition to the application. Mr. Prefontaine read from a presentation and submitted a photograph of the entrance to the proposed development, both filed as Exhibit 16.

Barbara Cape appeared in opposition to the application. Ms. Cape stated that she has resided in the area for two (2) years and that she walks daily in the neighbourhood. Ms. Cape stated that the development would negatively impact the community and reiterated concerns regarding safety, traffic and potential environmental impacts.

Judy Aubert appeared in opposition to the application and read a presentation into the record, filed as Exhibit 17.

Jules Legal appeared in opposition to the application. Mr. Legal stated that the proposed development would negatively impact "Les Bois des Esprits" due to its high density and proximity to the river. Mr. Legal explained that the configuration of the housing would not support the development of a viable pathway. Mr. Legal further stated that the City of Winnipeg should purchase at least a portion of the property in question to ensure contiguous development of the Seine River trail.

Dan Rachiele appeared in opposition to the application and read a presentation into the record, filed as Exhibit 18.

David Danyluk, Coordinator, Save Our Seine Environment Inc. (SOS), appeared for information with respect to the application. Mr. Danyluk stated that SOS supported the position of area residents and that the current design of the trail would result in said trail being washed out each spring. Mr. Danyluk further stated that landscaping to buffer the trail would be limited and likely ineffective due to the proposed configuration of lots. Mr. Danyluk stated that fewer lots on this site would provide for better development of a trail and would be less invasive for area residents and the Seine River.

Walter Rischuk and Delle Bonneau returned in rebuttal. Mr. Rischuk stated that the proposed development would only marginally increase light pollution and it would not hinder the adjacent parkland. Mr. Rischuk stated that the creation of seven (7) new lots would not generate an adverse amount of traffic nor would it create a safety hazard.

July 18, 2005
The applicant, Walter (Rusty) Rischuk, accompanied by Delle Bonneau appeared in support of the application.

Ms. Bonneau read from a presentation and submitted it along with photographs (filed as Exhibit 12).

Bradley Brown appeared in opposition to the application. Mr. Brown raised concerns regarding:

- removal of trees;
- negative impact on the environment;
- decrease in property values;
- safety;
- density.

Mr. Brown submitted a petition in opposition to the application purporting to contain the signatures of 56 area residents, filed as Exhibit 13. In response to a question from Councillor Magnifico, Mr. Brown stated that he would not be supportive of allowing the development of six (6) lots on the property in question.

Dan Rachiele appeared in opposition to the application. Mr. Rachiele stated that the land in question should be preserved and that he opposed any development on Riverbanks within the City of Winnipeg.

Peter Pearson appeared in opposition to the application. Mr. Pearson raised concerns regarding safety and privacy.

Ron Mondor appeared in opposition to the application and reiterated concerns with regards to the elimination of greenspace and wildlife, safety and density.

Kurt Lehmann appeared in opposition to the application and reiterated concerns regarding safety and density and raised concerns regarding disruption created by construction.

Judy Aubert appeared in opposition to the application and reiterated concerns regarding the negative effect the development will have on wildlife, privacy, the environment, pollution and safety.

David Danyluk, Coordinator, Save Our Seine Environment Inc. (SOS) appeared for information with respect to the application. Mr. Danyluk stated that SOS was supportive of the proposed low impact wood chip trail/pathway that would be built along the riverbank with the approval of the application. Mr. Danyluk stated that SOS was supportive of the trail development but would defer to the concerns raised by area residents.

Walter (Rusty) Rischuk and Delle Bonneau returned in rebuttal. Mr. Rischuk stated:

- Safety concerns raised by area residents would be addressed and the development would conform with City of Winnipeg standards;
- As many existing trees as possible would be protected to provide a buffer for existing homes;
- The development would enhance property values in the area;
- The cost of providing services to the site make it necessary for him to develop at least seven (7) new lots on the subject property to make the project economically viable;
- The development would not provide a significant impact on traffic in the area;

In response to a question from Councillor Swandel, Mr. Rischuk responded that, due to financial considerations, he would not be able to reduce the number of lots. In response to a question from Councillor Magnifico, Mr. Rischuk stated that he did not have an opportunity to meet with area residents as he was unable to return home due to inclement weather. Councillor Magnifico stated that he would be adjourning the matter until September to provide the applicant with one more opportunity to meet with area residents.

June 21, 2005
The applicant, Walter (Rusty) Rischuk, appeared in support of the application and gave a brief overview of the proposal.

Bradley Brown appeared in opposition to the application and provided a power point presentation, filed as Exhibit 11. Mr. Brown's presentation focused on three primary areas of concern that would be adversely affected by the development, namely:

1. Property Values;

2. Environment;

3. Pedestrian/Bicyclist safety;

Mr. Brown submitted a petition in opposition to the application purporting to contain the signatures of 213 area residents filed as Exhibit 10.

Rosemin Brown appeared in opposition to the application and reiterated concerns regarding safety.

Om Bhatnagar appeared in opposition to the application and reiterated concerns regarding safety.

Michael Collins, an area resident for more than twenty (20) years, appeared in opposition to the application and reiterated concerns regarding safety.

Mr. Rischuk returned in rebuttal. Mr. Rischuk stated that seven (7) new homes would not cause a significant increase in traffic for the area and that he would be willing to install a stop sign at the exit to his property at John Bruce Road.

Councillor Magnifico asked that Mr. Rischuk consult with area residents prior to the next meeting of the Riel Community Committee in the hopes of arriving at a compromise.

May 17, 2005
No representations were heard inasmuch as the Riel Community Committee adjourned the Public Hearing with respect to this application prior to opening representations.

Exhibit "8" referred to in File DASZ 27/2005 [c/r DAV 314160/2004D]

Winnipeg

Planning, Property and Development Department Report

To the Riel Community Committee

Date: May 10/05
File: DASZ 27 /04
Related Files: 04- 314160D
Subject: To approve a plan of subdivision and zoning change to an R1-5 Single Family District to allow for the creation of seven (7) new building sites. Provision of a public reserve area is also being established along the Seine River.

Location: 740 John Bruce Road
Legal Description: Lot 1 & 2, Plan 12000

Applicant: Walter Rischuk
Owner: same as above

Recommendation: (Approved with Conditions)

Site Description

The site has a total acreage of 3.35 acres (145,860 sq. ft.) and is surrounded on three sides by the Seine River. The new lots will be fronting on a proposed new cul-de-sac which will connect to John Bruce Road. The majority of the site is flat and not treed except along the periphery of the property where the lot drops down to the river. On proposed lot one in the subdivision is an existing dwelling with garage and accessory garden sheds. To the north of the site is City owned land zoned PR-1. To the south across the Seine River is City land zoned PR-1. Beyond the City land are residences zoned RM-L Multiple Family. To the immediate are several residences zoned R1-20 Residential and to the west is the Seine River beyond which is City land and a number of single family residences along John Bruce Road.

Background

In 2004, an application was made by the owner for nine (9) single family lots including the existing dwelling. Under that proposal, no provision for a public reserve allowance was incorporated into the plan. At the time, it was stipulated by the City that the developer provide a geotechnical report addressing the potential impact of development on bank stability. The developer was also requested to demonstrate how the proposed cul-de-sac would connect to the terminus with John Bruce Road. The work as requested was completed but, in the interim, the plan was altered to include a public reserve allowance along the Seine River and the density was reduced to a total of eight (8) lots including the existing dwelling on lot one. All of the proposed new lots are marginally smaller in area than the lots outlined in the original plan. The smallest of the proposed lots (lot5) has a frontage of 14.08 metres in width and a depth of 40.4 metres.

Description of the Proposed Development

As outlined, the applicant is subdividing and rezoning his 3.35 acre parcel in order to create seven new buildable housing sites and a public reserve area along the Seine River. A front yard variance is required for proposed lot one which will have a front yard of 16.5 feet instead of 20 feet as required under the by-law. Access to the proposed lots will be via a cul-de-sac off John Bruce Road.

Analysis

It is the view of the Planning and Land Use Division that the proposed land use is in character and compatible with existing and emerging new subdivisions to the north, east and south. Royalwood Phase 1 is near completion on the north side of John Bruce Road and the first phases of Royalwood Phase 11 are well advanced immediately to the south. Proposed lot sizes are generally similar in overall total square footage to lots in adjoining subdivisions along the Seine River. It should be noted that the proposed development constitutes infill development which is one of the primary objectives of Plan Winnipeg. Furthermore it is through the subdivision/

rezoning process that the City fulfills its mandate of acquiring riverbank property along the Seine River. This added property is needed in order to extend and protect the linear parkway systems along the Seine River and to preserve environmentally sensitive areas. It should be noted that the amount of land allocated by the applicant negates the need for dedication.

Recommendation

The Planning and Land Use Division recommends approval for the following reasons:

- The proposed subdivision constitutes infill housing development which is a goal of Plan Winnipeg.
- The proposed lots are not dissimilar in size from lots in adjoining new subdivisions to the north and south.

Recommended Conditions of Approval

I. That the plan of subdivision proposed under File No. DASZ 27/04 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 27/04, attached hereto and dated May 10/05, for registration in the Winnipeg Land Titles Office, subject to the following:

A. That 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 April 26/05.

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 27/05, attached hereto and dated May10/05, to a "R1-5" Residential District and a "PR-1" Parks and Recreational District.

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.

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: Kevin Lalor
PPD File # (.531)

By-Law No. _____

File No. **DASZ 27/04**

Atlas Sheet No.

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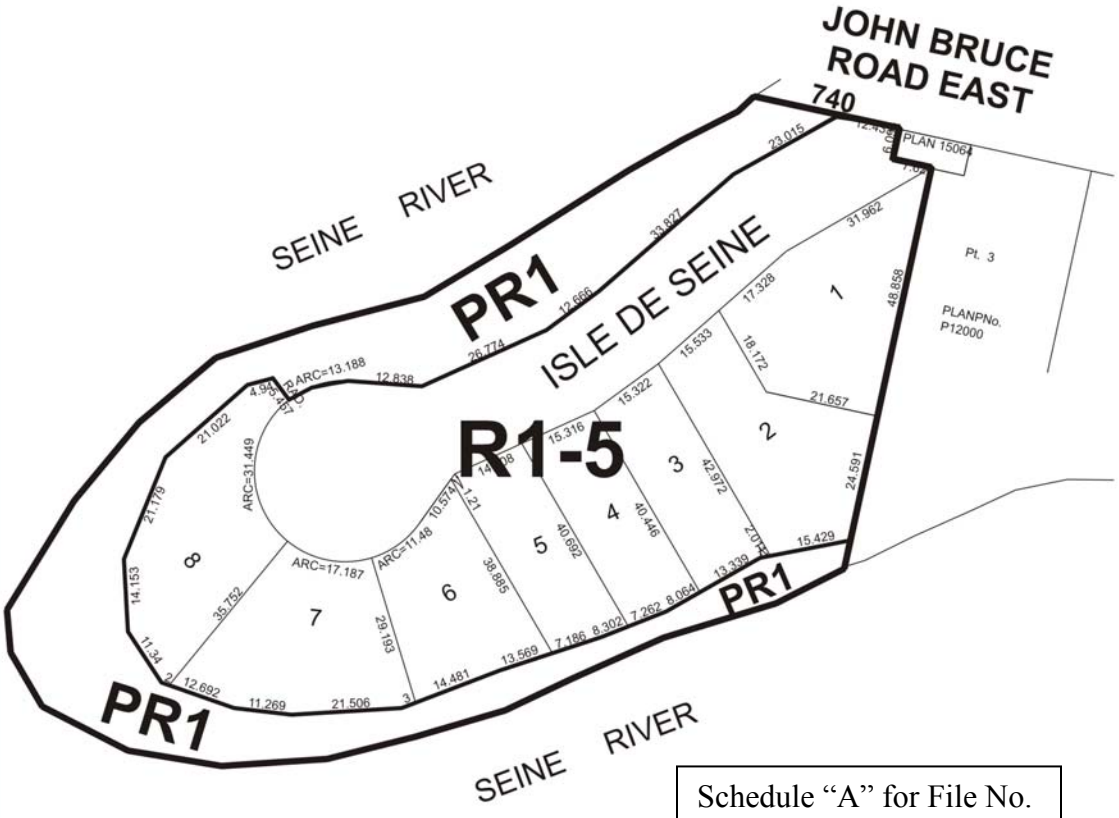
RIEL
COMMUNITY

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 at 740 John Bruce Road from a "R1-20" SINGLE-FAMILY DISTRICT to an "R1-5" SINGLE-FAMILY DISTRICT and a "PR1" PARKS AND RECREATION DISTRICT as shown outlined below.



Schedule "A" for File No. DASZ 27/04, Riel Community Committee, dated May10/05

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Exhibit "7" referred to in File DASZ 27/2005 [c/r DAV 314160/2004D]

Re: Proposed subdivision and rezoning of land located at 740 John Bruce Road East – DASZ 27/04

An application has been submitted by Walter Daniel Rischuk to subdivide and rezone land located at 740 John Bruce Road East. It is recommended that approval of DASZ 27/04 be subject to the Developer entering into a Development Agreement with the City as follows:

1. a) The Developer shall, at no expense to the City, install watermains, wastewater sewers and land drainage sewers required to serve the proposed subdivision including a land drainage sewer outfall to the Seine River, if required, as determined by and to the satisfaction of the Director of Water and Waste.
   b) The Developer shall pay its share of the cost of the existing watermain in John Bruce Road East constructed by others on the basis of the current Local Improvement rate ($38.00/ft.).
   c) The Developer shall, at no expense to the City, install separate water and wastewater lot line connections to serve each lot within the proposed subdivision.
2. 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.
3. a) The Developer shall submit a legal survey showing the location of the 228.85m contour and the area of the subject property below this contour.
   b) The Developer shall sell to the City at a price of $15,000.00/acre all the land lying below geodetic elevation 228.85m for waterway purposes.
   c) The Developer shall pay the Seine River Waterway Acquisition Charge ($145.00/acre) applicable to the proposed subdivision.
4. The Developer shall, at no expense to the City, construct portland cement concrete pavement to a width of 7.5m and a thickness of 150mm in the proposed street and to a diameter of 21.0m and a thickness of 150mm in the cul-de-sac turn-around, and all related works including, but not necessarily limited to boulevard landscaping, ornamental street lighting and any modifications to the existing cul-de-sac turnaround on John Bruce Road East, all as determined by and to the satisfaction of the Director of Public Works.
5. The Developer shall, at no expense to the City, cause to be installed standard reflectorized permanent street name signs at the new intersection within or adjacent to the proposed subdivision, as determined by the Director of Public Works.
6. 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.
7. The Developer is to 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.

8. 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.
9. 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.
10. The Developer shall pay the full cost of engineering services provided by or on behalf of the City in connection with the installation of services required to serve the proposed subdivision.
11. The Developer shall pay cash in lieu of dedication of land for public open space as determined by the Director of Planning, Property and Development. (All the land being rezoned to PR1 shall be restored in conjunction with the riverbank grading work. The full cost of the services in the proposed street abutting the land being rezoned to PR1 shall be paid by the Developer.)
12. 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.

THIS REPORT SUBMITTED BY:

Administrative Coordinating Group
File No. AG 27/04
April 20, 2005

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"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