Minute No. 832
Report - Standing Policy Committee on Property and Development - September 19, 2006

Item No. 2 **Amendment to Development Agreement AG 12/2003 - Paul Martin Drive**
File DASZ 12/2003

COUNCIL DECISION:

Council concurred in the recommendations of the Standing Policy Committee on Property and Development and adopted the following:

1. That Development Agreement AG 12/2003 be further amended by deleting Condition No. 2 in its entirety and replacing same with the following new Condition No. 2:

   "2. By deleting the requirement for the Developer to transfer Lots 29 and 30 in Block 2 for development control purposes and replacing same with a clause that the Developer shall transfer to the City for $1.00 the 4m easement across Lot 28 as a pedestrian walkway. The Developer shall be required to construct a concrete sidewalk within the walkway and place sod between the sidewalk and the private property lines, all as determined by and to the satisfaction of the Director of Public Works."

2. That the Proper Offices of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report - Standing Policy Committee on Property and Development - September 19, 2006

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 September 21, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 19, 2006, the Standing Policy Committee on Property and Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 12, 2006, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

On July 18, 2006, the East Kildonan-Transcona Community Committee laid the matter over to its meeting to be held on September 12, 2006.

RE: PROPOSED AMENDMENT TO THE APPROVAL OF DASZ 12/03 (PAUL MARTIN DRIVE)

Council at its meeting held on July 21, 2004 approved an amendment to its September 24, 2003 approval of DASZ 12/03 being the Paul Martin Drive subdivision as follows:

1. By reducing the amount payable in lieu of public open space dedication by the amount of $30,000.00 including GST to compensate the Developer for the City's share of the cost of services installed by the Developer in Robson Street abutting Robson Park.

2. By deleting the requirement for the Developer to transfer Lots 29 and 30 in Block 2 for development control purposes and replacing same with a clause that the Developer shall transfer to the City for $1.00 the 9m easement across Lots 28 and 29 in Block 2 as a pedestrian walkway and emergency access. The Developer shall be required to construct a concrete sidewalk and place sod between the sidewalk and the private property lines and install bollards across both ends of the walkway all as determined by and to the satisfaction of the Director of Public Works.

A copy of a sketch forming part of Council's July 21, 2004 approval is attached.

Due to an oversight by the Developer's real estate agent, Lot 29, Block 2 was sold with no provision for the agreement between the City and the Developer that a pedestrian walkway and emergency access would be established on the most southerly 5.0m of Lot 29. The balance of the walkway/access to be established across Lot 28, Block 2 was still available. The Developer, following months of negotiations with the owner of Lot 29, Block 2, advised that he was able to purchase 2.0m which would be transferred to the City resulting in a 6.0m walkway rather than the 9.0m walkway initially contemplated. The Public Works Department assessed the situation and determined that the 6.0 walkway could also accommodate an emergency vehicular access as this width is comparable to the width of a standard lane right-of-way.

On July 27, 2005 Council's approval of July 21, 2004 was amended by stipulating that the Developer shall transfer 6.0m to the City for the establishment of a walkway and emergency access rather than 9.0m. (All other conditions of Council's July 21, 2004 approval remained unchanged.)

In a letter dated June 5, 2006, a copy which is also attached the Developer's solicitor advised the City that:

1. The Developer has made several offers to the owner of Lot 29, Block 2 to settle the outstanding matters i.e. the sale of 2m for walkway purposes, and

2. The Developer and the owner of Lot 29 were not able to come to an agreement, and

3. There is nothing further that the Developer can do in respect of this matter.

East Kildonan / Transcona Community Committee
June 30, 2006
AG 12/03

In view of the above situation the Public Works Department has assessed the suitability of a 4m walkway to also function as an emergency access. It has been determined that 4m is too narrow for vehicles but that 4m would be an acceptable width for pedestrians. This walkway would especially be convenient for the residents of Paul Martin Drive to gain access to the bus stops on Plessis Road near the intersection of Kernaghan Avenue.

It is therefore recommended that Council's approval of September 24, 2003 as amended on July 21, 2004 and July 27, 2005 be further amended by deleting Recommendation 2 in its entirely and replacing same with the following new Recommendation 2:

> "2. By deleting the requirement for the Developer to transfer Lots 29 and 30 in Block 2 for development control purposes and replacing same with a clause that the Developer shall transfer to the City for $1.00 the 4m easement across Lot 28 as a pedestrian walkway. The Developer shall be required to construct a concrete sidewalk within the walkway and place sod between the sidewalk and the private property lines all as determined by and to the satisfaction of the Director of Public Works."

THIS REPORT SUBMITTED BY:

Administrative Coordinating Group
File No. AG 12/03
June 30, 2006

(original signed by E.L. Carrière, P.Eng.)
Land Development Engineer

(original signed by R. Hartmann, P.Eng.)
Public Works Department
Transportation Division

Encl.

TAPPER CUDDY LLP
Barristers and Solicitors

June 5, 2006

Frank Bueti
Direct line: (204) 944-3272
E-mail: fb@tcwpg.com

VIA FACSIMILE

City of Winnipeg
Winnipeg Land Development
100 – 30 Fort Street
Winnipeg, Manitoba
R3C 4X7

Attention: Mr. Ernie Carriere

Dear Sir:

Re: 59 Paul Martin Drive – Doug Dewitt
Our Client: 55555 Ventures Inc.

Please be advised that I act for 55555 Ventures Inc. with regard to this matter. I am instructed by my client that it has made several offers to Mr. Doug Dewitt to settle the outstanding matters. Last week 55555 Ventures Inc. made a final attempt to acquire the two meters of land from Mr. Dewitt. Unfortunately, they were not able to come to an agreement as Mr. Dewitt was unwilling to settle this issue. Therefore, there is nothing further that 55555 Ventures Inc. can do in respect of this matter.

Should you have any questions please telephone me.

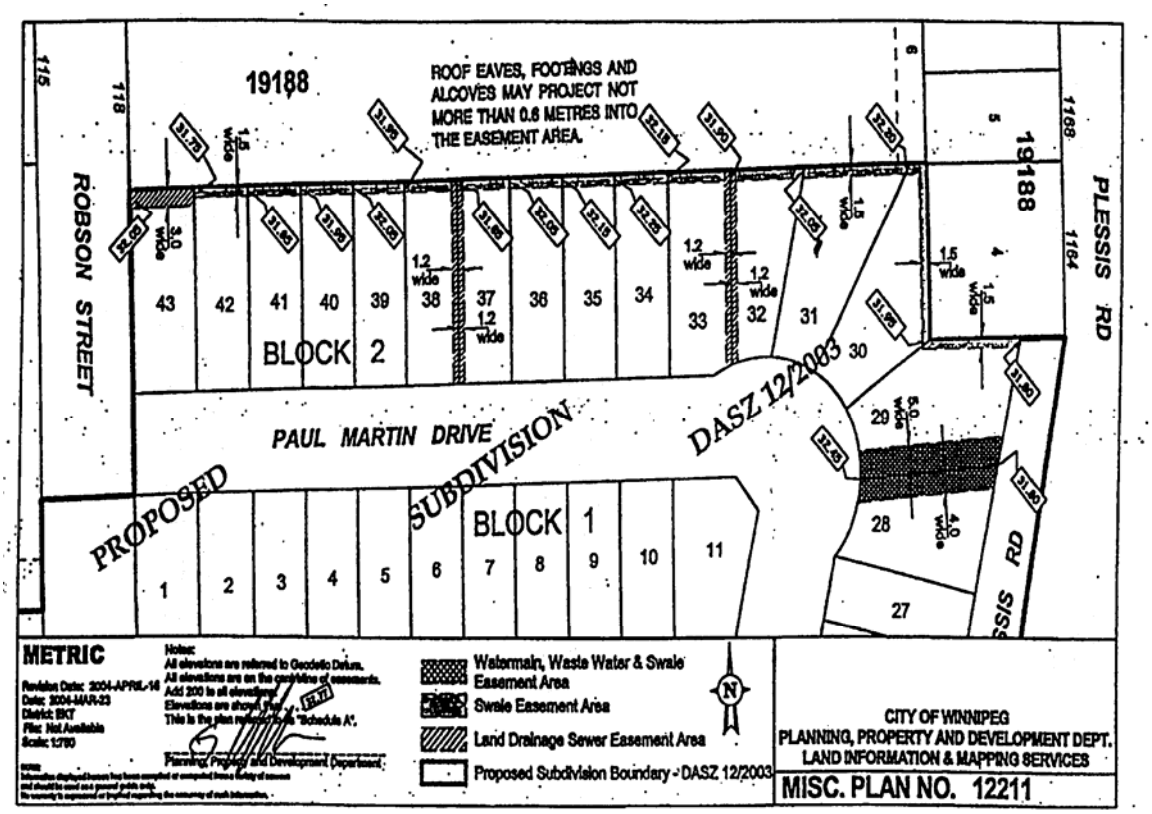
Yours truly,

TAPPER CUDDY LLP

PER:

FRANK BUETI

FB/bp
cc: Darshan Thind


ROOF EAVES, FOOTINGS AND ALCOVES MAY PROJECT NOT MORE THAN 0.6 METRES INTO THE EASEMENT AREA.
19188
ROBSON STREET
PLESSIS RD
PAUL MARTIN DRIVE
PROPOSED SUBDIVISION DASZ 12/2003
BLOCK 2
BLOCK 1
METRIC
Watermain, Waste Water & Swale Easement Area
Swale Easement Area
Land Drainage Sewer Easement Area
Proposed Subdivision Boundary - DASZ 12/2003
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12211