Minute No. 841
Report - Standing Policy Committee on Property and Development - September 19, 2006

Item No. 11 Subdivision and Rezoning - east of Main Street, north of Scotia Street and John Black Road, south of proposed Ridgecrest Avenue File DASZ 30/2006

COUNCIL DECISION:

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

1. That the plan of subdivision proposed under File DASZ 30/2006 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 30/2006 dated September 12, 2006, 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 August 28, 2006, with the exception of the following:

        i. That clause 4 be deleted in its entirety and the remaining clauses renumbered accordingly.

        ii. That the following words be added at the end of former clause 16 (now renumbered as clause 15), namely:

            "and that this restriction not apply to any solution involving access to the Machan and Samson properties approved by the Lord Selkirk-West Kildonan Community Committee."

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 outlined on Schedule "A" for File DASZ 30/2006 dated September 12, 2006, to an "R1-4" Residential District and an "RM-3" Multiple-Family 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:

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

COUNCIL DECISION (continued)

A. That final plans for the "RM-2" lands, showing the location, design and materials of the proposed buildings, the location and design of accessory parking areas, internal walkways, private approaches, garbage enclosures, fencing, landscaping, and signage be submitted to the Lord Selkirk-West Kildonan Community Committee prior to the issuance of building permits, developed in accordance with those plans and thereafter all to be maintained to the satisfaction of the Director of Planning, Property, and Development.

B. That prior to consideration of plans for approval by the Lord Selkirk-West Kildonan Community Committee for the "RM-2" lands the Developer shall:
   i. provide, by mail, a copy of development plans for the "RM-2" lands to all property owners within 500 feet of the subject lands
   ii. hold an open house for said property owners.

C. That billboard signs, a minimum of 48 square feet in size, shall be erected on the "RM-2" lands identifying the zoning designation of the lands. The signs shall be erected within 90 days of registration of the plan of subdivision and maintained until final occupancy permits for the first building on each property have been issued.

4. That riverbank land be protected by the Developer executing a Conservation Easement Agreement that will serve to protect the natural habitat on the riverbank adjacent to the Red River, as generally illustrated in the plan labeled Appendix C. The easement will be to the satisfaction of the City and shall be registered as a caveat in series with the registration of the plan of subdivision in the Winnipeg Land Titles Office.

5. 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.

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

7. 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.

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

COUNCIL DECISION (continued)

8. 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.

9. That 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.

10. 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.

11. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

12. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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 Lord Selkirk-West Kildonan Community Committee, as amended, 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 Lord Selkirk-West Kildonan Community Committee with the following amendment, namely:

- That Recommendation No. 3D. be renumbered as Recommendation No. 4. and the balance of the recommendations renumbered accordingly,

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

COMMUNITY COMMITTEE RECOMMENDATION:

On September 12, 2006, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation outlined in the revised administrative report dated September 12, 2006, with the following amendments, namely:

Administrative Coordinating Group Report:

- Delete clause 4 in its entirety and renumber the remaining clauses accordingly.

- Add the following words at the end of former clause 16 (now renumbered as clause 15), namely:

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

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

> "and that this restriction not apply to any solution involving access to the Machan and Samson properties approved by the Lord Selkirk-West Kildonan Community Committee."

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

On July 25, 2006, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and adjourned the public hearing with respect to the application to its meeting on September 12, 2006.

RE: **Subdivision and Rezoning - east of Main Street, north of Scotia Street and John Black Road, south of proposed Ridgecrest Avenue File DASZ 30/2006 [DAV 145543/2006D]**

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

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

Report date: **September 17, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 12, 2006, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 30/2006 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 30/2006 dated September 12, 2006, 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 August 28, 2006 ***with the exception of the following:***

        i. That clause 4 be deleted in its entirety and the remaining clauses renumbered accordingly.

        ii. That the following words be added at the end of former clause 16 (now renumbered as clause 15), namely:

        "and that this restriction not apply to any solution involving access to the Machan and Samson properties approved by the Lord Selkirk-West Kildonan Community Committee".

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 outlined on Schedule "A" for File DASZ 30/2006 dated September 12, 2006, to an "R1-4" Residential District and an "RM-3" Multiple-Family 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 final plans for the "RM-2" lands, showing the location, design and materials of the proposed buildings, the location and design of accessory parking areas, internal walkways, private approaches, garbage enclosures, fencing, landscaping, and signage be submitted to the Lord Selkirk-West Kildonan Community Committee prior to the issuance of building permits; developed in accordance with those plans and thereafter all to be maintained to the satisfaction of the Director of Planning, Property, and Development.

   B. That prior to consideration of plans for approval by the Lord Selkirk-West Kildonan Community Committee for the "RM-2" lands, the Developer shall:
      i. provide, by mail, a copy of development plans for the "RM-2" lands to all property owners within 500 feet of the subject lands
      ii. hold an open house for said property owners.

   C. That billboard signs, a minimum of 48 square feet in size, shall be erected on the "RM-2" lands identifying the zoning designation of the lands. The signs shall be erected within 90 days of registration of the plan of subdivision and maintained until final occupancy permits for the first building on each property have been issued.

   D. That riverbank land be protected by the Developer executing a Conservation Easement Agreement that will serve to protect the natural habitat on the riverbank adjacent to the Red River, as generally illustrated in the plan labeled Appendix C. The easement will be to the satisfaction of the City and shall be registered as a caveat in series with the registration of the plan of subdivision in the Winnipeg Land Titles Office.

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 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.

9. That 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.

10. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

11. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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 Lord Selkirk-West Kildonan Community Committee agreed with the administrative comments contained in the revised report from the Planning and Land Use Division dated September 12, 2006 and in the report from the Administrative Coordinating Group dated August 28, 2006.

2. The proposed development plan is a much better plan than anything that has been submitted before.

3. This developer should enjoy the same benefit and not have to pay for services previously installed on Main Street inasmuch as adjoining developers were not required to.

PUBLIC HEARING SUMMARY

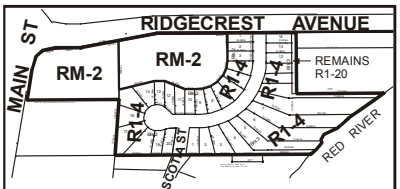
File: DASZ 30/2006 [DAV 145543/2006D]

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Pagtakhan, Chairperson
Councillor Lazarenko
Councillor O'Shaughnessy

Public Hearing: September 12, 2006
July 25, 2006
West Committee Room, Council Building
510 Main Street

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

Subject:



LORD SELKIRK WEST KILDONAN COMMUNITY

APPLICANT : LOMBARD NORTH GROUP

FILE : DASZ 30/06

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 an "R1-4" RESIDENTIAL DISTRICT and an "RM-2" MULTIPLE-FAMILY DISTRICT. **For information, phone Mr. M. Robinson, Planner at 986-3213.**

Premises Affected: east of Main Street, north of Scotia Street and John Black Road, south of proposed Ridgecrest Avenue

Exhibits Filed:

1. Application dated June 16, 2006
2. Notification of Public Hearing dated June 21, 2006
3. Manitoba Status of Titles 2154245 and 2154991
4. Letter of authorization dated June 5, 2006 from Geal Investments Ltd. to Lombard North Group (1984) Ltd.
5. Plan
6. Report from the Planning and Land Use Division dated June 30, 2006
7. Inspection Report
8. Communication from Douglas W. Machan dated July 27, 2006, in support of the application
9. Revised application dated September 6, 2006
10. Revised Notification of Public Hearing dated August 8, 2006
11. Revised Plan
12. Revised report from the Planning and Land Use Division dated August 31, 2006
13. Report from the Administrative Coordinating Group dated August 28, 2006
14. Communication dated September 10, 2006 from Walter and Gloria Samson, in opposition to the application, including a DASZ Summary regarding the subject property
15. Revised report from the Planning and Land Use Division dated September 12, 2006
16. Inspection Report
17. Communication dated September 11, 2006 from Walter and Gloria Samson, in opposition to the application

REPRESENTATIONS:

In Support:

David Palubeski, Lombard North Group (1984) Ltd.
Richard and Betty Ann Graydon
Gerald D. MacDonald
Mark MacDonald
Marlene Mouser

In Opposition

Walter and Gloria Samson

For Information:

Doug Machan

For the City:

Mr. K. Raban, Land Development Administrator, Planning, Property and Development Department
Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

July 25, 2006
David Palubeski, on behalf of the applicant, Lombard North Group (1984) Ltd., appeared in support of the application. In answer to Councillor O'Shaughnessy's question, Mr. Palubeski confirmed that he was submitting a revised plan. Accordingly, Councillor O'Shaughnessy advised Mr. Palubeski that he did not wish to hear representation in this matter inasmuch as he was going to adjourn the application to the next Community Committee meeting on September 12, 2006 to allow for readvertising and reposting of the subject property.

September 12, 2006
David Palubeski, on behalf of the applicant, Lombard North Group (1984) Ltd., appeared in support of the application. Mr. Palubeski advised that he has read the revised administrative report dated September 12, 2006, and stated it was very thorough in terms of the history and the background relating to this application. He drew Committee's attention to the fact that this application has been before the Community Committee several times within the last sixteen (16) years in different forms, but has not been able to be carried forward or implemented because of some outstanding issues related to property interests held by two other property owners who have an easement relating to access over the subject property. In the past, there have been numerous discussions and considerations, but it has not been possible to have the access easement removed in exchange for a different form of access onto a new planned street.

Mr. Palubeski noted that his client, Gerry MacDonald, has had ongoing discussions with the residents who live south of the proposed development on Scotia Street and that a large majority of the residents on Scotia Street feel they are isolated because of a single access onto Main Street which does not have a median cut, and that not only does this create a nuisance for them, but from their perspective, safety and emergency service concerns as well. Mr. Palubeski further noted that his client has, on a continuing basis, told the residents that should the development be approved, he would build Ridgecrest Avenue in the north to connect with Scotia Street to Main Street thereby providing a secondary means of access for residents and emergency vehicles. He noted this could not be done until the access easement was removed, and that this would require

the cooperation of the two adjacent property owners (Doug Machan and Walter and Gloria Samson). Mr. Palubeski further noted that presently, Mr. Machan and his neighbours, Mr. and Mrs. Samson, have a driveway over 1000 feet long connecting to Main Street and that the intent is to replace this driveway with a direct access onto Ridgecrest Avenue at a planned location that would provide both properties with a shorter driveway and access directly onto a City collector street with a traffic control signal thereby improving safety, as well as convenience for the residents. In terms of discussions with Mr. Samson, Mr. Palubeski stated he has not had discussions with Mr. Samson, but that his client Mr. McDonald has. In this connection, Committee was advised there does not appear to be any solution at this time that is satisfactory to Mr. Samson, however, Mr. Palubeski was hopeful they should be able to advance these discussions to come up with a solution. In the event an agreement was not forthcoming between the parties, however, Mr. Palubeski suggested the City should consider getting involved on the basis of public interest and safety.

Mr. Palubeski made the following comments with respect to the revised report of the Planning and Land Use Division dated September 12, 2006, namely:

- With respect to the requirement to submit final plans for the "RM-2" lands, prior to submitting same for the approval of the Community Committee, the developer would be willing to hold a community open house with the property owners between John Black Road and Ridgecrest Avenue.

- When the City does its calculation in terms of the land development payment, that it nets out of that calculation, the area proposed to be included in the Conservation Reserve, which is approximately 1.75 acres.

With respect to the Administrative Coordinating Group report, Mr. Palubeski had the following comments and/or concerns, namely:

- With respect to the recommendation to delete proposed Lot 15, Block 3, Mr. Palubeski's client has no concern with respect to this, and put forward the suggestion this property could be consolidated with Mr. Samson's property inasmuch as Mr. Machan has indicated a desire to have a separate access by his house.

- Delete clause 4 given that when his client was required to provide lands as part of the RiverRidge development to create a connection between Ridgecrest Avenue to the east side of Main Street, his land area was reduced. In addition, with that development, his client was also required to pay for improvements and services on Main Street. He therefore requested that the developer not be required to pay for the cost of services previously installed on Main Street, a benefit enjoyed by other adjoining developers.

- With respect to clause 16, Mr. Palubeski indicated his client is presently working with Mr. Machan to provide a separate access from his house to Ridgecrest Avenue and requested that this private approach be permitted, as well as any future private approach off Ridgecrest Avenue for Mr. and Mrs. Samson's property.

- With respect to clause 17, Mr. Palubeski once again requested that the land that will form part of the Conservation Easement be excluded from the calculation of the cash in lieu of land dedication.

Richard Graydon, also appearing in support of the application on behalf of residents of Scotia Street, advised Committee that he has canvassed the area and that the residents of Scotia Street are supportive of the extension of Scotia Street to Main Street, which the proposed development will provide, if approved. Mr. Graydon acknowledged there may be problems and delay in approval of the development proposal due to rights of way over the property of Mr. McDonald. In this connection, he strongly requested that the City take whatever means necessary to allow the development, including the extension of Scotia Street, to proceed. He also requested that when Scotia Street is extended, that logical and acceptable restrictions concerning through traffic and parking.be implemented by the City.

Marlene Mouser, also appearing in support of the application, expressed concern regarding traffic on John Black Road and Scotia Street and stated the opinion that motorists will take a short cut on John Black Road and Scotia Street to avoid the traffic control signal at Ridgecrest Avenue and Main Street.

Gloria and Walter Samson appeared in opposition to the application. Mrs. Samson submitted and read into the record her presentation filed as Exhibit 17. She drew Committee's attention to the fact that this matter and negotiations have been going on since 1988 and made reference to the chronology of the facts she has prepared and submitted, filed as Exhibit 14. Mr. Samson also drew Committee's attention to the fact that he and his wife purchased their property a long time ago and that Mr. MacDonald purchased his property knowing of the easement on the subject property. Mr. Samson gave background history relative to the access agreement and requested that they be treated fairly. Councillor O'Shaughnessy advised Mr. Samson that the City would not act as a mediator or get involved, but only if it affected the City-at-large.

In rebuttal, Mr. Palubeski stated that if this is to proceed, that it would be helpful for the City to get involved and without the City's involvement, they will not be able to bridge the roadblock that has confronted this property for sixteen (16) years. In response thereto, Councillor O'Shaughnessy noted this is a problem between a developer and two private owners and if agreement can not be reached, then mediation services be considered, not The City of Winnipeg.

Exhibit "15" referred to in File DASZ 30/2006

Winnipeg

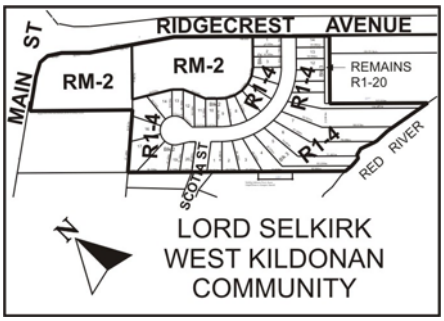
Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

REVISED

Date: September 12, 2006
File: DASZ 30/06
Related Files: DASZ 10/05, DASZ 11/05
Subject: An application for approval of a plan of subdivision and related change to Zoning By-law 6400/94 by rezoning the subject lands from an "R1-20" Residential District to an "R1-4" Residential District, and an "RM-2" Multiple-Family Residential District to allow for the creation of thirty four (34) single-family residential lots and two (2) multiple-family residential lots.

Location: East of Main Street, North of Scotia Street and John Black Road, South of the Proposed Ridgecrest Drive



Applicant: Lombard North Group (David Palubeski)
Owner: Gerald Macdonald, Winntori Developments Ltd, Geal Investments, Ltd.

Recommendation: Approval

Report Summary:

- **Application to create 34 single-family lots and 2 multiple-family lots.**
- **Proposal meets Plan Winnipeg policies infill development and compatible land use**
- **The plan includes the extension of Scotia Street to the north to Ridgecrest Avenue**
- **The Planning and Land Use Division recommends that the application be approved with conditions**

Site Description

The subject property, which is undeveloped and currently zoned "R1-20" Residential, is located east of Main Street, north of Scotia Street, and south of the future Ridgecrest Avenue, in the Rivergrove neighbourhood of the Old Kildonan Ward.

North: The future Ridgecrest Avenue, then undeveloped lands zoned "C2" Commercial and "R1-4" Residential
South: Residences and a religious use zoned "R1-20" Residential
East: The Red River and residences zoned "R1-20" Residential
West: A religious use zoned "R1-20" Residential and Main Street

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.

Zoning and Lots

34 single-family lots, zoned "R1-4" Residential and 2 multiple-family lots measuring 2.02 and 2.39 acres zoned "RM-2" Multiple Family are being proposed with this development.

Streets

The street alignment includes the extension of Scotia Street north to Rivergrove Drive and one short cul-de-sac. The applicant is also proposing the development of a 20-foot wide access road off Ridgecrest Avenue to service the Samson and Machan properties, which are just to the east.

Natural Areas

The Planning and Land Use Division is recommending that approximately 1.75 acres of natural habitat area along the eastern portion of the site, adjacent to the Red River, be protected through a conservation easement.

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 raise the height of the properties above flood protection level.

In light of this, the primary dike which is being constructed in conjunction with the development of the lands to the north (DASZ 10/05 and 11/05), will not be extended further south.

Bank stability
A geotechnical report prepared in support of this application indicates that a portion of the land adjacent to the river is unstable and is not safe to build in. This area is identified by a dashed line on the subdivision plan. The applicant has indicated that all development will take place outside of this area.

Background
The subject property has been the subject of three other development applications since 1988 (DASZ 9/88, DASZ 15/94, and DASZ 9/97).

DASZ 9/88
In July 1988, the LSWK Community Committee approved a plan of subdivision to create 23 single-family building lots zoned "R1-5" Residential. These plans were never proceeded with.

DASZ 15/94
In December 1994, the LSWK Community Committee approved a plan of subdivision to create 14 condominium units, zoned "RM-L" Multiple-Family and 7 single-family building lots, zoned "R1-6" Residential. These plans were never proceeded with.

DASZ 9/97
September 16, 1997
The LSWK Community Committee approved a plan of subdivision to develop a 62-unit condominium complex, zoned "RM-1" Multiple-Family.

April 14, 1998
The LSWK Community Committee recommended, "that the right-of-way over the southerly 16 feet of the property be expropriated." This recommendation was forwarded on to the Standing Policy Committee on Property and Development.

May 4, 1998
The Standing Policy Committee on Property and Development referred the recommendation, with respect to expropriation, to the Property and Development Services Department (so named at that time) for review and report back

February 10, 1999
The Standing Policy Committee on Property and Development recommended that "the Administration be authorized to advise the developer under File DASZ 9/97 that the City will not expropriate or otherwise participate in the cost of acquiring the private 16 foot right-of-way."

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, in part, 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 emerging River Ridge 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. This proposal will preserve sensitive riverbank lands through a recommended conservation easement.

Natural Areas
The Division is recommending that land adjoining the riverbank not be dedicated as Park land and that the Developer be required to provide a cash payment in lieu of parkland dedication, landscaping, and services.

However, in light of the fact that there is natural habitat along the riverbank, the Division is recommending that the lands be protected through a Conservation Easement Agreement. A description of conservation easements is provided in Appendix B.

The recommendation is a departure from normal City Policy and Procedure. However, the Division believes that the unique circumstances related to the Subject Property warrant this departure from Policy. A detailed reasoning for this recommendation is provided in Appendix A.

Compatibility with existing neighbourhood and surrounding uses
Single-Family Residential
The applicant is proposing "R1-4" Single-Family Residential zoning for the single-family residential lots. This is characteristic for the area and is consistent with what was approved last year on the lands to the north. (DASZ 10/05 and 11/05)

Multiple-Family
The applicant is also proposing "RM-2" Multiple-Family Residential on two lots, which front onto Main Street and Ridgecrest Avenue. The proposed zoning of these lands, which will abut the future high school and future multiple-family or commercial development at the northeast corner of Main Street and Ridgecrest Avenue, will serve as a buffer for the future single-family residential development to the south. Furthermore, the proposed RM-2 zoning, with an allowable height of 35 feet and a moderate density yields, is at a scale and intensity that is compatible with the adjoining area.

However, in light of the fact that there is not a specific development proposal under consideration at this time, the Division recommends that the future developer be required to notify adjacent landowners prior to submitting a development proposal to Community Committee for plan approval. Additionally, the Division recommends that signage be erected on the land indicating the future intent for multiple-family development on the site.

Streets
Scotia Street
Currently, the portion of Scotia Street north of the Chief Peguis Trail dead ends at the southern terminus of the subject lands. As previously mentioned, the proposed development includes plans to extend Scotia Street to the north to Ridgecrest Avenue. This connection will improve traffic circulation in the area and provides a desirable second point of access for both this development and for the existing homes on Scotia Street.

Access Lane
The applicant is proposing to create a separate lot, requiring a variance (DAV 06-145543D), in order to provide an alternative means of access to the two properties immediately to the east of the subject lands. Public Works has indicated that while they support an access at this location, they believe that it should not be a separate lot for the fact that it could fall into City hands and become a long-term liability simply on account of non payment of the property taxes. As an alternative, Public Works is recommending that an access be incorporated into the adjoining private properties, which would reduce potential obligations on the part of the City.

Easement
Two adjacent property owners, who are not a party to this application, hold a 16-foot, 1,173 foot long all-purpose easement extending from Main Street to their houses across the proposed Scotia Street right-of-way. Without the consent of the two easement holders, the applicant cannot register a plan over the easement for the extension of Scotia Street to Ridgecrest Avenue or close the private approach on Main Street and replace it with an alternate approach directed to an adjoining public street serving the two easement holders.

The various parties have been discussing the matter of the easement for some time and have been unable to come to an agreement that would see the easements released and replaced with an alternative access.

Consequently, this matter will require resolution prior to registration of the plans for this development.

With that said, assuming that an agreement between property owners cannot be reached, the City has powers it can exercise under the Winnipeg Charter to alter or replace the easement in the interest of coordinating the logical planned development of the area. However, in order to proceed in this manner, direction from City Council is required.

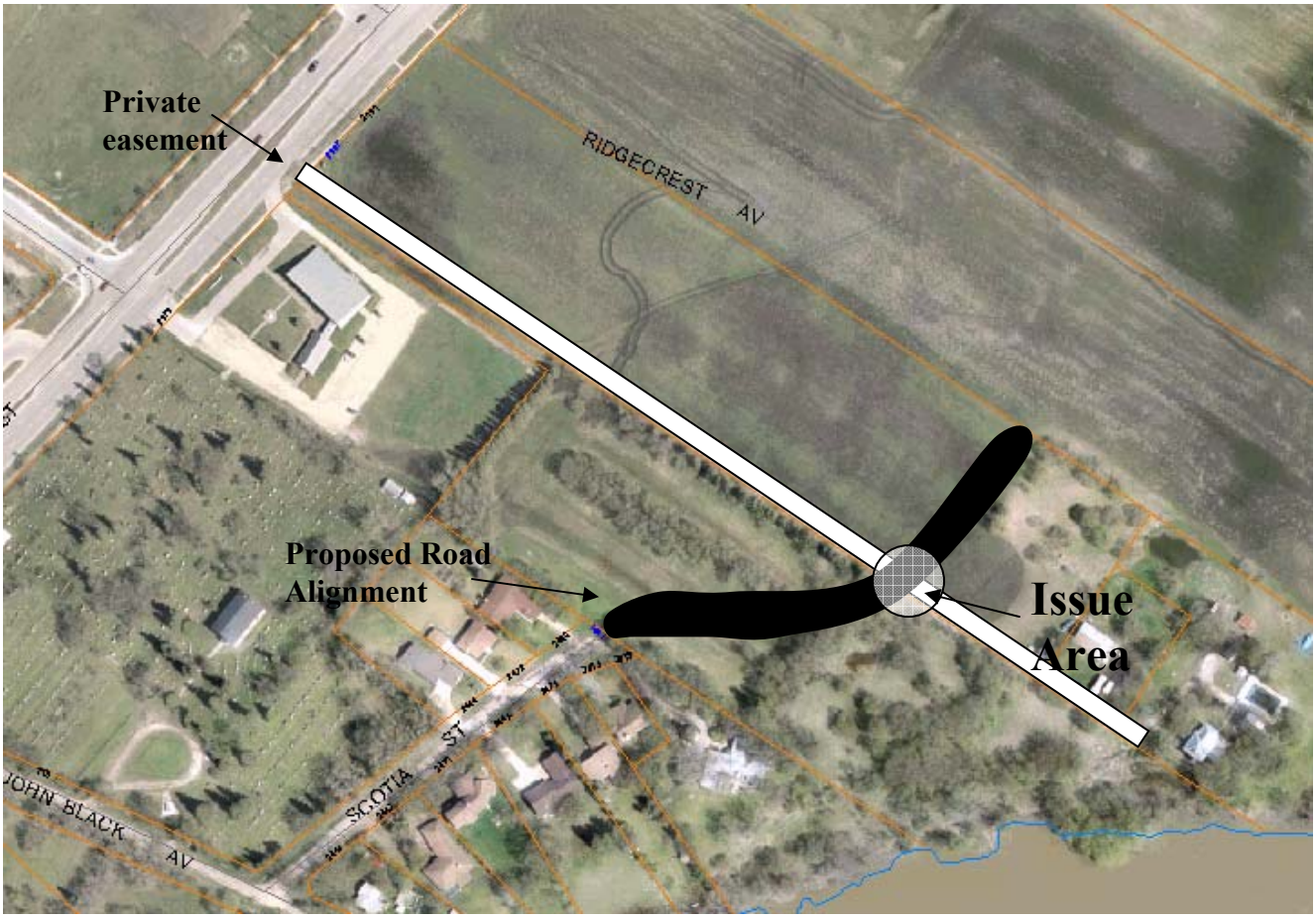


Figure 1: Easement Across the Proposed Extension to Scotia Street

Recommendation

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

- **Proposal meets Plan Winnipeg policies for infill development and compatible land use**
- **The proposed development will protect sensitive natural lands through a conservation easement agreement**

- **The development includes the extension of Scotia Street to Ridgecrest Avenue, which will improve traffic circulation in the area and provides a desirable second point of access for both this development and for the existing homes on Scotia Street.**

Recommended Conditions of Approval

I. That the plan of subdivision proposed under File No. DASZ 30/06 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 30/06, attached hereto and dated September 12, 2006, 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 August 28, 2006;

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 30/06, attached hereto and dated September 12, 2006, to an "R1-4" Residential District and an "RM-2" Multiple-Family 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 final plans for the "RM-2" lands, showing the location, design and materials of the proposed buildings, the location and design of accessory parking areas, internal walkways, private approaches, garbage enclosures, fencing, landscaping, and signage be submitted to the Lord Selkirk-West Kildonan Community Committee prior to the issuance of building permits; developed in accordance with those plans and thereafter all to be maintained to the satisfaction of the Director of Planning, Property, and Development

B. That prior to consideration of plans for approval by the Lord Selkirk-West Kildonan Committee Committee for the "RM-2" lands, the developer shall

1) Provide, by mail, a copy of development plans for the "RM-2" lands to all property owners in the area bounded by Ridgecrest Avenue on the north, John Black Avenue on the south, the Red River on the east, and Main Street on the west
2) Hold an open house for said property owners.

C. That one billboard sign, four (4) feet by eight (8) feet in size, shall be erected on each of the "RM-2" lands identifying the location and zoning designation of the multiple-family property. The signs shall be erected within 90 days of registration of the plan of subdivision and maintained to the satisfaction of the Director of Planning, Property, and Development until such time that the vacant land is either developed or rezoned to another use.

D. That riverbank land be protected by the Developer executing a Conservation Easement Agreement that will serve to protect the natural habitat on the riverbank adjacent to the Red River, as generally illustrated in the attached plan labeled Appendix C. The easement will be to the satisfaction of the City and shall be registered as a caveat in series with the registration of the plan of subdivision in the Winnipeg Land Titles Office.

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.

X. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

XI. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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

Report Prepared by: Michael Robinson, AICP PPD File # 3.323

Schedule "A"

By-Law No. _____

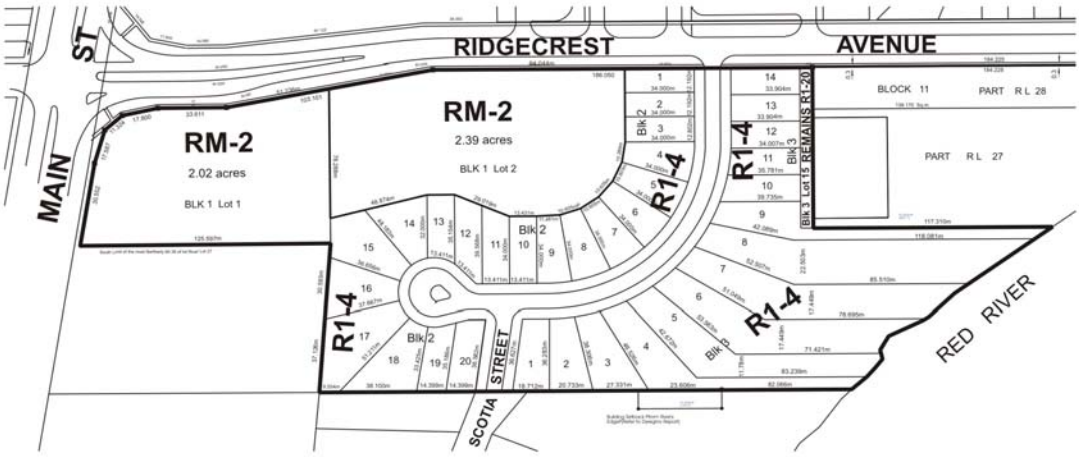
File No. **DASZ 30/06**

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 Ridgecrest Avenue from an "R1-20" RESIDENTIAL DISTRICT to an "R1-4" RESIDENTIAL DISTRICT and an "RM-2" MULTIPLE-FAMILY DISTRICT as shown outlined below.



Schedule "A" to the report of the Lord Selkirk-West Kildonan Community Committee for File No. DASZ 30/06, dated September 12, 2006.

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____



Figure 1: Aerial Photo (Flown in 2005)

Appendix A

Report by Kevin Nixon, Park Strategic Planner

We recommend that the riverbank land identified as "PR" (1.75 acres) in the development application DASZ 30/06 not be dedicated as Park land and that the Developer be required to provide a cash payment in lieu of parkland dedication, landscaping, and services.

It is our further recommendation that the riverbank land identified as "PR" in the development application DASZ 30/06 (the Subject Property) be protected by the Developer executing a Conservation Easement Agreement that will serve to protect the natural habitat on the riverbank adjacent to the Red River. The easement will be to the satisfaction of the City and shall be registered as a caveat in series with the registration of the plan of subdivision in the Winnipeg Land Titles Office.

The recommendation is a departure from normal City Policy and Procedure. However, we believe that the unique circumstances related to the Subject Property warrant this departure from Policy. The paragraphs below give the detailed reasoning for our recommendations.

History

The Subject Property has been the subject of three other development applications since 1988 (DASZ 9/88,DASZ 15/94, DASZ 9/97). In DASZ 9/88 and DASZ 15/94 the Developers were required to provide cash payment in lieu of parkland dedication, landscaping, and services.

In DASZ 9/97 the Administration again recommended that the Developer be required to provide cash payment in lieu of parkland dedication, landscaping, and services. In addition, the Administration recommended that the Developer ensure that public access for pedestrians and cyclists be facilitated through proposed Lot 2 between Scotia Street and Ridgecrest Avenue and the City may register a caveat against Lot 2 notifying property owners of the perpetual public access requirement. The Lord Selkirk-West Kildonan Community Committee did not concur in the Administrative recommendations. The Lord Selkirk-West Kildonan Community Committee recommended that the Developer be required to dedicate approximately 2 acres of river front property for public reserve purposes in lieu of cash.

City Policy

Plan Winnipeg 2020 Vision gives policy direction regarding managing Parks, Open Space, and Waterways. It states that the City shall maintain and expand the system of Public Parks by, in part, by developing a linear parkway system, and enhancing the system through the acquisition of riverbank lands and rail and hydro rights-of-ways.

Plan Winnipeg 2020 Vision goes on to state that the City shall protect environmentally-sensitive land, in part, by protecting flood plains and unstable riverbank slopes by identifying susceptible areas and employing protective and preventive measures, including the possible acquisition of such lands, to reduce the risk of property damage where appropriate.

Bank Stability

The subject lands are located along a concave or outside bend of the Red River where there is substantial evidence of deep-seated bank failure. Riverbank Stabilization of such lands for the long term can be costly with construction cost estimates typically ranging in the order of $4,000 to $6,000 per lineal metre of water frontage. In this particular case, the proposed land dedication would encompass approximately 100 metres of riverbank frontage and, on the basis of the above unit costs; effective stabilization works would cost $400,000 to $600,000.

City Parkway System

The current City Parkway System does not extend beyond the Chief Peguis Bridge on the West side of the Red River. However, riverbank pathway development has occurred and more is planned in the River Grove neighbourhood north of the subject property. The Subject Property is important to connect these pathway systems to the Winnipeg Parkway System.

It is important to note that the proposed extension of Scotia Street north to Ridgecrest Avenue could be utilized for the pathway connection thus avoiding the use of the unstable riverbank on the Subject Property.

Natural Areas

The Subject Property is identified as containing natural areas. On closer inspection we have found that the riverbank does not have a natural plant community. The site is of low quality (Grade C) with a lot of disturbance and non-native plants present. While the Administration cannot defend acquiring the site from a unique habitat perspective, we believe it is in the best interests of the City and the eventual homeowners that the riverbank area should be protected. Retaining the riverbank vegetation will help to stabilize this unstable riverbank thus protecting the Subject Property. We propose to protect this riverbank area by requiring the Developer to execute a Conservation Easement Agreement.

Conclusion

City Policy, the need to protect natural areas and riverbanks, as well as the requirement to connect the trails in River Grove to the rest of the City trail and Parkway system would suggest that the acquisition of the subject property be considered. However, because the acquisition of the Subject Property represents such a significant financial liability; because the natural habitat and the riverbank can be protected through an Ecological Easement; and the River Grove pathway system can be connected to the rest of the City via the proposed extension of Scotia Street and Ridgecrest Avenue it is the Administrations recommendation that the riverbank land identified as "PR" (1.75 acres) in the development application DASZ 30/06 not be dedicated as Park land and that the Developer be required to provide a cash payment in lieu of parkland dedication, landscaping, and services.

It is our further recommendation that the riverbank land identified as "PR" in the development application DASZ 30/06 (the Subject Property) be protected by the Developer executing a Conservation Easement Agreement that will serve to protect the natural habitat on the riverbank adjacent to the Red River. The easement will be to the satisfaction of the City and shall be registered as a caveat in series with the registration of the plan of subdivision in the Winnipeg Land Titles Office.

Appendix B

Description of a conservation easement from the City of Winnipeg Environmentally Sensitive Natural Lands Strategy

"Conservation easements are legal agreements voluntarily placed on the deed of property by the landowner to protect natural features. The easement can be placed on the entire property or on a portion of the property and can be set up to continue once ownership of the property is transferred. The easement restrictions can be used to protect existing natural areas on private property without a transfer of ownership. Under the provision of the Province's *Conservation Agreements Act* landowners may sell or donate an interest in the land to an eligible conservation agency for the purpose of preserving a portion of the land for the enhancement of natural ecosystems, wildlife or fisheries habitat and plant or animal species. The benefit to the landowner can come through tax deductions for the easement and/or payments by the conservation agency. "

Appendix C

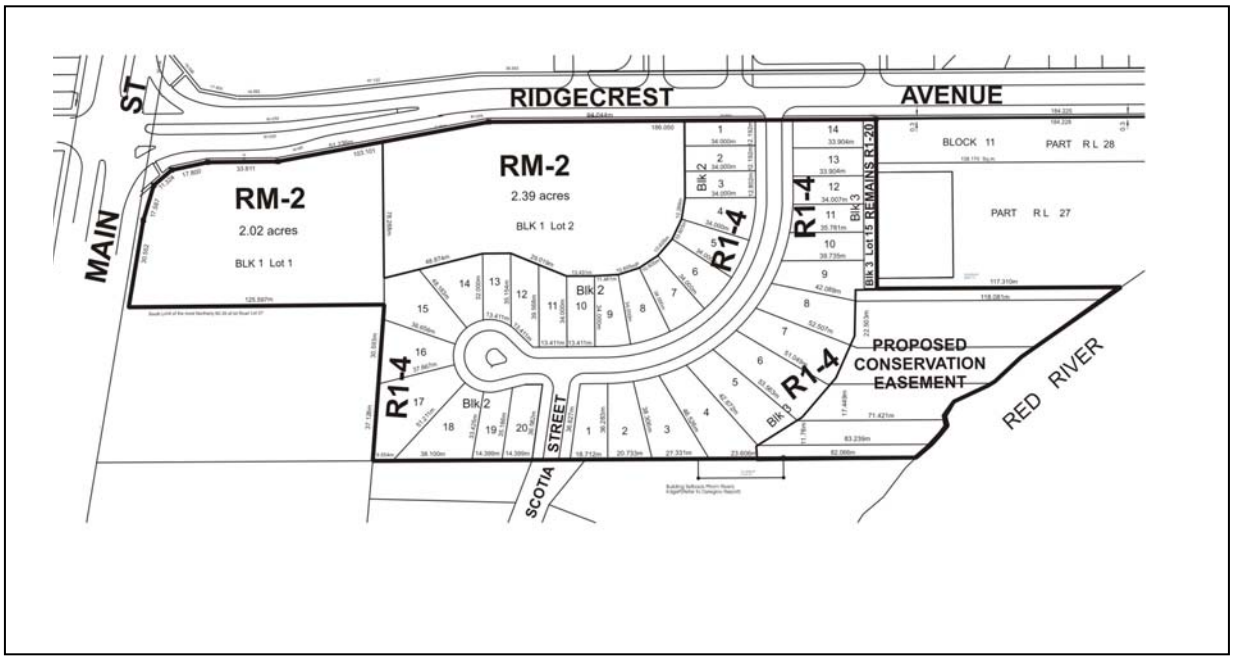

RIDGECREST
AVENUE
MAIN
ST
RM-2
2.02 acres
BLK 1 Lot 1
RM-2
2.39 acres
BLK 1 Lot 2
R1-4
R1-4
R1-4
R1-4
Blk 2
Blk 2
Blk 3
Blk 3
BLOCK 11
PART R L 28
PART R L 27
Blk 3 Lot 15 REMAINS R1-20
PROPOSED
CONSERVATION
EASEMENT
RED RIVER
STREET
SCOTIA

Exhibit "13" referred to in File DASZ 30/2006

Re: Proposed Subdivision and Rezoning of land located on the east side of Main Street, south of Ridgecrest Avenue - DASZ 30/06

An application has been submitted by Lombard North Group to Subdivide and Rezone land located on the east side of Main Street, south of Ridgecrest Avenue.

It is recommended that the plan be amended as follows:

1. By deleting proposed Lot 15 Block 3, (Access to 2387 and 2393 Main Street can be accommodated across a residential lot fronting on Scotia Cove)
2. Right-of-way to accommodate the cul-de-sac turnaround is to be consistent with the dimensions illustrated on Streets and Transportation Drawing ST-90 (revised) or St-90-A.

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, at no expense to the City, install wastewater sewers and watermains (looped to the main in Scotia Street) as determined by and to the satisfaction of the Director of Water and Waste.
2. a) The Developer shall install land drainage sewers required to serve the proposed subdivision 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 land drainage sewers installed or to be installed by others within the River Ridge Subdivision as determined by the Director of Water and Waste. The Developer shall also pay its share of the cost of land drainage trunk facilities installed by the City and benefiting the western portion of the proposed subdivision as determined by the Director of Water and Waste.
3. The City shall file a caveat in the Land Titles Office advising certain owners that part of the proposed subdivision is located within 1000m of the North End Water Pollution Control Centre (NEWPCC).
4. The Developer shall pay its share of the cost of the following services previously installed or to be installed, by the City in Main Street along the full length of the subject property abutting 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.

5. 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 for the area of currently undeveloped, but developable lands, bounded by Main Street on the west, Chief Peguis Trail on the south, the Red River on the east and Red River Boulevard on the north, as determined by the Director of Public Works:
    a) 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 releated works;
    b) 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; all as and when determined by and to the satisfaction of the Director of Public Works.
6. The Developer shall pay its share of the cost of services to be installed by others in Ridgecrest Avenue as determined by the Director of Public Works and Water and Waste.
7. The Developer shall, at no expense to the City, construct portland cement concrete pavement to widths of 7.5m and radii of 10.5m and thickness of 150mm in all streets within the proposed subdivision, and all related works including, but not necessarily limited to boulevard landscaping, ornamental street lighting and land drainage sewer, all as determined by and to the satisfaction of the Director of Public Works.
8. 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 Planned Area, as determined by the Director of Public Works.
9. 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.
10. 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.
11. 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.
12. 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 to the Director of Public Works.

13. The Developer shall ensure that two paved means of vehicular access are available at all times through all stages of development of the Planned Area to the satisfaction of the Director of Public Works. This may require the construction of temporary roadways and the provision of easements or right-of-way therefore.
14. 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.
15. 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.
16. There are to be no private approaches serving single or two family residential development off of Ridgecrest Avenue.
17. The Developer shall pay cash in lieu of dedication of land for public open space including the value of servicing and landscaping which would have been required if open space had been dedicated within the proposed subdivision all in accordance with City policy.
18. The Developer shall pay $1,200.00 per acre in lieu of 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 30/06

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["Original signed by E.L. Carriere"]
Land Development Engineer

["Original signed by R.J. Hartmann"]
Public Works Department

["Original signed by T.S. Josephson"]
Water and Waste Department