Minute No. 41
Report - Standing Policy Committee on Property and Development - November 3, 2009

Item No. 3 **Plan of Subdivision - 3280 St. Mary's Road, 151 Fraser Road (St. Vital Ward) File DAS 17/2009**

COUNCIL DECISION:

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

1. That the plan of subdivision under File DAS 17/2009 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" dated September 28, 2009 with such minor changes as may be required, and registration in the Winnipeg Land Titles Office subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated August 18, 2009, with the following amendment:

        i. That Recommendation 13 under heading B. Development Agreement be amended by deleting "$1,200.00" and replacing same with "$200.00" in the first line thereof.

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

3. That in the event the matter is not proceeded with expeditiously and the by-law is not passed 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.

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

5. That the plan of subdivision shall be approved and signed by the Director of Planning, Property and Development within one year from the date the by-law is passed, failing which the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

Report - Standing Policy Committee on Property and Development – November 3, 2009

COUNCIL DECISION (continued):

6. 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.

7. That the Proper Officers 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 - November 3, 2009

DECISION MAKING HISTORY:

Moved by Councillor Steeves,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 18, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 3, 2009, 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.

COMMUNITY COMMITTEE RECOMMENDATION:

On October 5, 2009, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service with the following amendment:

- Amend Recommendation 1. A. by adding the following after the words "August 18, 2009", namely:

  "with the following amendment:

  i. That Recommendation 13 under heading B. Development Agreement be amended by deleting "$1,200.00" and replacing same with "$200.00" in the first line thereof",

and forwarded to the Standing Policy Committee on Property and Development.

On September 8, 2009, the Riel Community Committee adjourned the public hearing to its meeting on October 5, 2009.

RE: **Plan of Subdivision – 3280 St. Mary's Road, 151 Fraser Road (St. Vital Ward)**
File DAS 17/2009 [c/r DAV 129749/2009D]

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

Prepared by: **Marc Pittet, Senior Committee Clerk**
Riel Community Committee

Report date: **October 6, 2009**

COMMUNITY COMMITTEE RECOMMENDATION:

On October 5, 2009, the Riel Community Committee concurred in the recommendation contained in the revised report from the Planning and Land Use Division dated September 28, 2009, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision under File DAS 17/2009 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" dated September 28, 2009 with such minor changes as may be required, and registration in the Winnipeg Land Titles Office subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated August 18, 2009, ***with the following amendment:***

        i. That Recommendation 13 under heading B. Development Agreement be amended by deleting "$1,200.00" and replacing same with "$200.00" in the first line thereof.

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

3. That in the event the matter is not proceeded with expeditiously and the by-law is not passed 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.

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

5. That the plan of subdivision shall be approved and signed by the Director of Planning, Property and Development within one year from the date the by-law is passed, failing which the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

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

1. The Riel Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated September 28, 2009.

PUBLIC HEARING SUMMARY

File: DAS 17/2009 [c/r DAV 129749/2009D]

Before: Riel Community Committee
Councillor Steeves, Chairperson
Councillor Vandal

Public Hearing: October 5, 2009
September 8, 2009
Council Chamber, Council Building, 510 Main Street

Applicant: Pollock & Wright Manitoba Land Surveyors (Jim Watling)

Subject:



Premises Affected: 3280 St. Mary's Road, 151 Fraser Road

Exhibits Filed:

1. Application dated June 15, 2009
2. Notification of Public Hearing dated June 23, 2009
3. Manitoba Status of Titles 1966144 and 2220241
4a. Letter of authorization dated June 10, 2009 from Paul Veert, Veert Landscaping Inc. to Pollock and Wright Land Surveyors
4b. Letter of authorization dated June 10, 2009, from Paul and Joyce Veert, to Pollock and Wright Land Surveyors
5. Surveyor's Building Location Certificate and sketch dated June 10, 2009
6. Plans (2 pages)
7. Report from the Planning and Land Use Division dated September 1, 2009
8. Inspection Report
9. Photographs and Petition purporting to contain the signatures of 20 area residents in opposition to the application submitted by Karen Burwagh at the Public Hearing
10. Communication in opposition to the application submitted by Georgina Jarema at the Public Hearing
11. Petition in support of the application purporting to contain the signatures of 16 area residents submitted by Jim Watling at the Public Hearing
12. Audio Recording of representations of public hearing held on September 8, 2009
13. Notice of Adjournment dated September 10, 2009
14. Revised Plan dated September 15, 2009
15. Revised Report from the Planning and Land Use Division dated September 28, 2009
16. Hydrological Review submitted by Jim Watling at the Public Hearing on October 5, 2009
17. Audio Recording of representations of public hearing held on October 5, 2009

REPRESENTATIONS:

In Support:
Dwight and Remi Allen
Tom Kormylo
Bill Lopushniuk
Joyce and Paul Veert
Jim Watling

In Opposition
Jackie Bailey
Barb and Darren Borton
Karen Burwagh, (representing Mr. and Mrs. Stopera)
Georgina Jarema
Gary Koley
Lawrence and Joyce Stopera

For Information:
Rose and Glen Gibbings
Dave R. Penner
Sari and Allan Fogg
Massoud Horriat

For the City:
Ms. S. Matile, Land Development Engineer, Planning, Property and Development Department
Mr. J. Wintrup, Senior Planner, Planning, Property and Development Department

Exhibit "15" referred to in File DAS 17/2009 [c/r DAV 129749/2009D]

ADMINISTRATIVE REPORT

ISSUE: DAS 17/2009 3280 St. Mary's Road Public Hearing REVISED

Critical Path: RIEL Community Committee as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Himbeault	n/a	n/a	

RECOMMENDATIONS

1. That the plan of subdivision under File DAS 17/2009 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" dated September1, 2009 with such minor changes as may be required, and registration in the Winnipeg Land Titles Office subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated August 18, 2009.

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

3. That in the event the matter is not proceeded with expeditiously and the by-law is not passed 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.

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

5. That the plan of subdivision shall be approved and signed by the Director of Planning, Property and Development within one year from the date the by-law is passed, failing which the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

6. 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.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, this will facilitate
subdivide an existing parcel into six (6) separate lots, four of which will be new residential lots. A new
road and cul-de-sac will be constructed to provide access to the four new interior
lots.

CONSULTATION

In preparing this Report there was consultation with:

Water and Waste
Legal Services

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	Kevin Lalor
Date:	September 28, 2009
File No.	DAS 17/2009

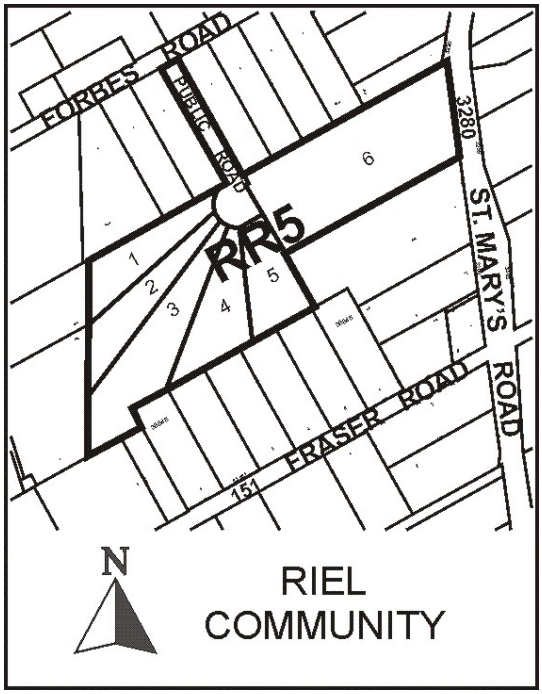
APPENDIX 'A'

Date: September 28/2009
File: DAS 17 /09
Related Files: DAV 09 –129749/D, DASSF 513/2008

Subject: The object of the subject application is to subdivide an existing parcel into six (6) separate lots, five (5) of which will be new residential lots. A new road and cul-de-sac will be constructed to provide access to the five new interior lots. The existing lot on Frasier Road will be retained in its original size.

Location: 3280 St. Mary's Road, West side between Forbes Road & Frazer Road

Legal Description: Lot 2, Plan 46132; Lot 2 , Plan 36645



Applicant: Pollock & Wright

Owner: Veert Landscaping Inc**.**

Recommendation: **Approved**

Site Description:



Existing Land Use & Zoning:

Veert Landscaping Ltd. currently occupies the frontage portion of the overall lot with direct access to St. Mary's Road. The rear areas appear to be generally vacant and not utilized. The land is zoned " RR-5" Rural Residential.

Surrounding Land Use & Zoning:

The vast majority of the surrounding land is zoned " RR-5" Rural Residential and most of the frontage along Frazer and Forbes Roads is fully developed with primarily two acre residential lots. There is a small designated and zoned " C2" Commercial area at the corner of Forbes Road and St. Mary's Road , one of the few identified under the St. Vital Perimeter South Secondary Plan.

Background:

In 1998, under application DASSF 530/98, Mr. Veert created six new lots along Fraser Road, west of St. Mary's Road. In 2000, under DASSF, he created nine new lots along Forbes Road, once of which (lot 5) constituted the future right-of-way into his current proposed subdivision. In 2006, under DASSF 600/06, he split off his frontage along St. Mary's Road into two separate lots. Then , in 2008, Mr. Veert , under DASSF 513/08, proposed a three (3) lot subdivision . Proposed lot 3 , in that subdivision, would contain his business along St. Mary's Road; proposed lot 1 would constitute a rear expansion of his lot at 151 Fraser Road and proposed lot 3 would be a new lot with private frontage on Forbes Road. The subdivision plan was not supported by the Planning Department, at that time, because of the proposed creation of at least two flag lots. Flag lots are lots created at the rear of existing lots with long narrow private accesses onto existing streets, usually between existing dwellings. That application did not proceed and has been replaced by the subject application DAS 17/09.

Description of the Proposed Development:

Under DAS 17/09, Mr. Veert is expanding on his previous application, by recommending the creation of a public road access off of Forbes Road into the subject property and subdividing the land into a total of five (5) lots instead of the original three (3). One of the proposed lots currently has buildings on it; proposed lot 6 (at 8.24 acres) will continue to be the site of Mr. Veert's landscaping business and will have direct access onto St. Mary's Road. The remaining five lots are all interior lots accessed via a public roadway to Forbes Road and all range in size from 2.09 acres to 3.03 acres. The road right-of way will be constructed to a City standard and the area will be graded and drained in accordance with a detailed grading/drainage plan which Mr. Veert has to submit **to** and have approved **by** the City's Water & Waste Department. In addition to the subdivision application, the applicants have also applied for a variance (DAV 09 129749D) which , if approved, will permit the creation of new lots , less than five acres in size but more than two acres - in a zoned minimum five acre area.

Analysis:

It should be noted that the subject lands lie west of St. Mary's Road, which is an area designated under the St. Vital Perimeter South Secondary Plan for minimum two acre lots. As a result of the Plan guidelines, between 80 and 90 two (2) acre lots (most on existing rights-of-way) have been created in this area alone in the last thirty years. Mr Veert's proposed lots meet the legal minimum requirements for lot size and the proposed road access and cul-de- sac will have to be built to City standards established by the Public Works Department. As further outlined in the accompanying report of the ACG, the owner will have to provide a lot grading plan prepared by a municipal engineer and shall grant any easements necessitated by the design. In addition, prior to the release of subdivision mylars, the owner shall grade the property in accordance with the approved lot grading plan, including the construction of all drainage swales, to the satisfaction of the Director of the Water and Waste Division. Its

important to note that in 2004, the City's Water and Waste Department ,(in response to a growing concern about water quality in the area) , hired Wardrop Engineering to do a thorough hydrological assessment of the lands between St. Mary's Road and the Red River. Their report confirms that with each new lot and more importantly each new well, the water has become more heavily salinized and therefore more and more contaminated. This is a problem which has historically affected residential properties in neighbouring municipalities to the south and it can only be addressed by limiting the number of wells in the affected areas. For several years, in response to expressed concerns, the City has been inserting a clause (by way of zoning or subdivision agreement) for each new subdivision in the aforementioned area, that wells be prohibited. The City has no jurisdiction over wells. The authority for drilling of wells is under the jurisdiction of the Provincial Government. Thus, there are no City permits required to drill a well and any records regarding existing wells would be with the Province. A recommendation to restrict new wells would be hard to enforce given that the City would have no way of knowing whether a person has constructed a well on the land, since no permit is needed from the City.

Recommendation:

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

- The proposed lots are all in compliance with the minimum standards established by the St. Vital Perimeter South Secondary Plan, for new subdivisions west of St. Mary's Road.
- The proposed subdivision plan appears to be the only viable alternative for efficiently developing the subject parcel of land.
- The proposed change to the plan of subdivision from the first public hearing retains the lot size of the property on Fraser Road that is consistent with the other lot sizes on Fraser Road.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division
Report Prepared by: Kevin Lalor
PPD File # .543

Schedule “A” for File No. DAS 17/09, Riel Community Committee, dated September 28, 2009.

By-Law No. _____

File No. **DAS 17/09**

Explanation

An application for the approval of the plan of subdivision shown outlined below to create 6 lots including opening a new street (north/south off of Forbes Road) to allow for future residential development.

Atlas Sheet No.

N

AP25
RIEL
COMMUNITY



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

SCHEDULE B - REPORT OF THE ADMINISTRATIVE CO-ORDINATING GROUP

RE: PROPOSED SUBDIVISION OF LAND - 3280 ST. MARY'S RD AND 151 FRASER ROAD – DAS 17/09

Jim Watling of Pollock & Wright has submitted an application to subdivide Paul Veert's land at 3280 St. Mary's Road and 151 Fraser Road to create six two-acre lots fronting on a proposed new cul-de-sac.

In the absence of a Secondary Plan review to incorporate the findings of a 2004 hydrogeological report, which identified serious groundwater salination issues and recommended that the lots in this area be a minimum of five acres in area, it is recommended that the approval of DAS 17/09 be subject to the following:

A. Plan Considerations

The Applicant transferring and legally opening, at no expense to the City, property required for a 24.0/30.5-m* right-of-way for the proposed Public Road, including property for a standard offset cul-de-sac bulb with a radius of 25.0 m, all as determined by, and to the satisfaction of, the Director of Public Works.
(*see recommendation 3(b), below)

B. Development Agreement

The Applicant entering into a Development Agreement with the City of Winnipeg, containing the following conditions:

1. a) The Developer shall, at no expense to the City, provide a lot grading plan, prepared by a municipal engineer, for the Planned Area, and install all drainage works necessitated by the design, as determined by, and to the satisfaction of, the Director of Water & Waste.

   b) The Developer shall, at no expense to the City, construct and certify all swales and ditches, and install all culverts, etc., required to provide positive lot drainage for the Planned Area, prior to the release of subdivision mylars, as determined by, and to the satisfaction of, the Director of Water & Waste.

   c) The Developer shall, at no expense to the City, provide to the City all easements required for the maintenance of swales, ditches, culverts, and lot drainage upon registration of the approved subdivision mylars in the Land Titles Office, as determined by, and to the satisfaction of, the Director of Water & Waste.

2. The water services for the Planned Area shall be private; the wastewater sewer services for the Planned Area shall be private, and shall conform to the City's Sewer By-law; and the City shall not extend, and the Developer shall not ask the City to extend, City wastewater sewers or City watermains to service the Planned Area.

3. The Developer shall, at no expense to the City, construct, in the proposed Public Road, a granular roadway in accordance with current A-5 standards, including the cul-de-sac turnaround to a radius of 17.5 m, all as determined by, and to the satisfaction of, the Director of Public Works. The A-5 standard for granular roadways includes, but is not limited to, the construction of ditches and the installation of culverts and all related works. The Developer shall dedicate right-of-way of minimum 24.0 m width where the proposed ditch is 0.6 to 1.2 m below existing ground, and of minimum 30.5 m width where the proposed ditch is more than 1.2 m below existing ground. The roadway shall be at least 7.5 m wide, with shoulders at least 1.5 m wide on either side of the roadway. The roadway and shoulders shall comprise a minimum 150-mm-thick application of aggregate overlying a minimum 300-mm-thick compacted granular sub-base. All materials and construction shall be to the satisfaction of the Director of Public Works.

4. The Developer shall, at no expense to the City, cause wood-pole street lighting to be installed within the Planned Area.

5. The Developer shall, at no expense to the City, ensure that construction traffic uses access routes determined by the Director of Public Works; maintain those access routes, at no expense to the City, in a clean, dust-free condition, free of dropped and tracked-on mud; and undertake the regular cleaning of streets – all until building construction, including landscaping, is complete, and all as determined by, and to the satisfaction of, the Director of Public Works.

6. The Developer shall, at no expense to the City, initiate and control the regular cleanup 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 houses, until completion of all construction, as determined by, and to the satisfaction of, the Director of Public Works.

7. Upon completion of all construction within the Planned Area, including house-building and landscaping, all roads used to access the Planned Area, including pre-existing roads and the road constructed by the Developer, shall be fully restored to conditions equal to or better than before commencement of the work in the Planned Area, all as determined by, and to the satisfaction of, the Director of Public Works.

8. The Developer shall, for itself, its successors, and its assigns, covenant with the City to cut all grass and maintain all areas within the landscaped street right-of-way adjacent to each lot between the travelled road surface and the property line, to the satisfaction of the Director of Public Works, which covenant shall be registered in the Land Titles Office by caveat against each lot within the proposed subdivision.

9. Following completion of all major construction works, the Developer shall, at its cost, have the locations of the survey monuments within the Planned Area verified and, where the survey monuments have been disturbed, moved, covered, mutilated, or destroyed, have them replaced by a Manitoba Land Surveyor, who shall provide the Director of Planning, Property & Development with a certificate that all survey monuments within the Planned Area have been verified and/or replaced.

10. The Developer shall pre-pay to the City, prior to the release of the subdivision mylars for registration in the Land Titles Office, the cost of maintaining, in perpetuity, the granular roadway fronting the lots within the Planned Area (2009 rate = $20 plus GST per frontage foot).

11. The Developer shall pay to the City cash in lieu of dedication of land for public open space, as follows: 8% of the appraised value of the land plus the costs of landscaping and services which it would have contributed to the City if public open space had been dedicated

12. 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 Planned Area.

13. The Developer shall pay to the City $1,200.00 plus GST per 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 Co-ordinating Group
File No. DAS 17/09
August 18, 2009

"original signed by S. M. Matile, P. Eng., Chair"
S. M. Matile, P. Eng., Chair
Land Development Branch

"original signed by R.J. Hartmann, P. Eng."
R. J. Hartmann, P. Eng.
Public Works Department, Transportation Division

"original signed by F. Mazur, P. Eng."
F. Mazur, P. Eng.
Water & Waste Department