Agenda - Council – February 24, 2010

Report - Standing Policy Committee on Property and Development – January 5, 2010

Item No. 2 Subdivision and Rezoning – Northwest Corner of McCreary Road and Wyper Road (Charleswood-Tuxedo Ward) File DASZ 22/2009

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 17, 2010, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submits the following to Council:

1. That the plan of subdivision proposed under File DASZ 22/2009 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 22/2009 dated October 13, 2009, for 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 September 30, 2009.

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 22/2009 dated October 13, 2009 to an "RR2" Rural Residential District, subject to the following:

    A. That the applicant enter into a Zoning Agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

        i. Each lot shall be developed in accordance with the Wilkes South Secondary Plan, namely for:
            a. Yard requirements
            b. Minimum setbacks to septic fields

3. That the zoning section of the by-law comes into force and effect when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

Report - Standing Policy Committee on Property and Development – January 5, 2010

4. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land and the creation of additional lots.

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

6. 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.

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

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

9. 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.

10. 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.

11. 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.

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 – January 5, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 17, 2010, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submitted the matter to Council.

On January 20, 2010, the Executive Policy Committee laid over the matter to its next meeting.

STANDING COMMITTEE RECOMMENDATION:

On January 5, 2010, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On December 2, 2009, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service with the following amendments, namely:

- Amend Recommendation No. 2 by adding the following:

    "A. That the applicant enter into a Zoning Agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

        i. Each lot shall be developed in accordance with the Wilkes South Secondary Plan, namely for:
            a. Yard requirements
            b. Minimum setbacks to septic fields"

- Renumber Recommendation Nos. 3 to 11, to Recommendation Nos. 4 to 12.
- Add new Recommendation No. 3 as follows:

Report – Standing Policy Committee on Property and Development – January 5, 2010

DECISION MAKING HISTORY: (continued)

COMMUNITY COMMITTEE RECOMMENDATION: (continued)

"3. That the zoning section of the by-law comes into force and effect when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed"

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

On November 17, 2009, the Assiniboia Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on Wednesday, December 2, 2009 at 5:00 p.m. in the Council Building, 510 Main Street.

On October 20, 2009, the Assiniboia Community Committee adjourned the public hearing to its meeting on Tuesday, November 17, 2009 at 5:00 p.m. in the Council Building, 510 Main Street.

RE: **Subdivision and Rezoning – Northwest Corner of McCreary Road and Wyper Road File DASZ 22/2009**

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

Prepared by: **Danielle Caron, Committee Clerk Assiniboia Community Committee**

Report date: **December 4, 2009**

COMMUNITY COMMITTEE RECOMMENDATION:

On December 2, 2009, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 22/2009 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 22/2009 dated October 13, 2009, for 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 September 30, 2009.

2. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 22/2009 dated October 13,2009 to an RR2" Rural Residential District, ***subject to the following:***

    A. That the applicant enter into a Zoning Agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

        i. Each lot shall be developed in accordance with the Wilkes South Secondary Plan, namely for:

            a. Yard requirements
            b. Minimum setbacks to septic fields

3. That the zoning section of the by-law comes into force and effect when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

4. ~~***3.***~~ That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land and the creation of additional lots.

5. ~~***4.***~~ That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

6. ~~***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.

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

8. ~~***7.***~~ That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Servicing Agreement.

9. ~~***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.

10. ~~***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.

11. 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.

12. ~~***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 Assiniboia Community Committee provided the following supporting reasons for its recommendation:

1. The development is consistent with all other development in the area.

2. Subject to the zoning agreement, it will be consistent with the Wilkes South Secondary Plan.

PUBLIC HEARING SUMMARY

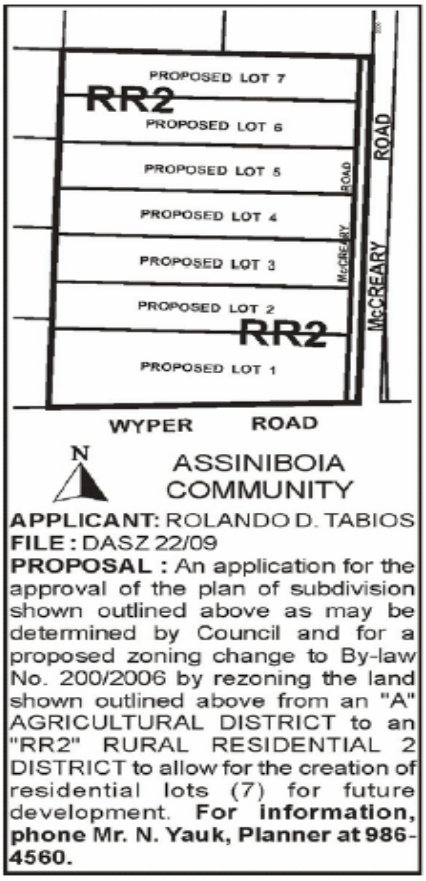
File: DASZ 22/2009

Before: Assiniboia Community Committee
Councillor Nordman, Chairperson
Councillor Clement
Councillor Fielding

Public Hearing: December 2, 2009
November 17, 2009
October 20, 2009
North Committee Room
Council Building, 510 Main Street

Applicant: Rolando D. Tabios

Subject:



Premises Affected: Northwest Corner of McCreary Road and Wyper Road

Exhibits Filed:

1. Application dated August 7, 2009
2. Notification of Public Hearing dated August 18, 2009
3. Manitoba Status of Title 1865133
4. Letter of authorization dated July 5, 2009 from Rolando C. Tabios and Rolfenda Luz Dimaculangan Tabios to Rolando D. Tabios
5. Plans (1 page)
6. Report from the Planning and Land Use Division dated October 13, 2009
7. Inspection Report
8. Audio Recording of the adjourned public hearing held on October 20, 2009
9. Notice of Adjournment dated October 22, 2009
10. Notice of Adjournment dated November 19, 2009
11. Audio Recording of the public hearing held on December 2, 2009

REPRESENTATIONS:

In Support:

Rolando D. Tabios Jr.
Christian Tabios

In Opposition:

Nil

For Information:

Nil

For the City:

Ms. S. Matile, Land Development Engineer, Planning, Property and Development Department
Mr. N. Yauk, Planner, Planning, Property and Development Department

Exhibit "6" referred to in File DASZ 22/2009

ADMINISTRATIVE REPORT

ISSUE: DASZ 22/2009 N/W corner of McCreary Road and Wyper Road Public Hearing.

Critical Path: Assiniboia Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee - Council 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 proposed under File DASZ 22/2009 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 22/2009 dated October 13, 2009, for 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 September 30, 2009.

2. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 22/2009 dated October 13,2009 to a "R2" Residential District.

3. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land and the creation of additional lots.

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

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 Servicing Agreement.

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.

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 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 the creation of seven (7) rural residential lots on the west side of McCreary Road.

CONSULTATION

In preparing this Report there was consultation with:

N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	Bryan Ward
Date:	October 13, 2009
File No.	DASZ 22/2009

APPENDIX 'A'

Date: October 13, 2009

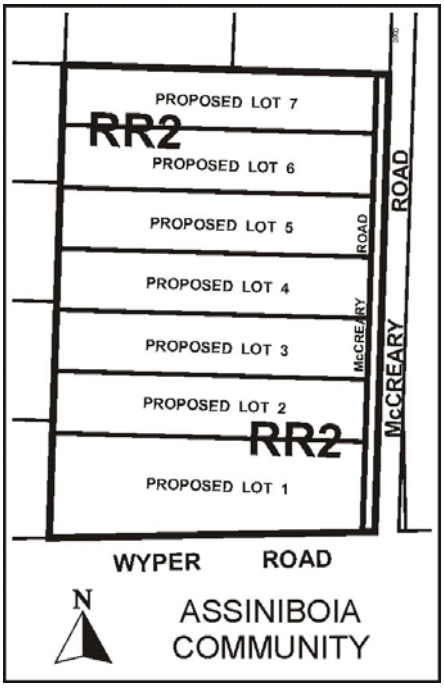
File: DASZ 22/09

Related Files:

Subject: Rezone and subdivide property into seven (7) rural residential lots on McCreary Road.

Location: North of Wyper Road on the west side of McCreary Road

Legal Description: All those portions of lots 18 and 19 in the outer two miles, Parish of Saint Charles Bounded as follows: On the north by the production easterly of the southern limit of lot 71 plan 1536 WLTO on the south by the southern limits of lots 18 and 19 of said parish, on the east by a line drawn west of, parallel with and perpendicularly distant 25 feet from the eastern limit of said lot 18 and on the west by the western limit of said lot 19



Applicant: Rolondo D. Tabois

Owner: Rolondo C. Tabois
Rolondo D. Tabois
Rolfenda L.D. Tabois

Recommendation: **Approve with Conditions**

Report Summary:

- The applicant is proposing to develop seven (7) rural residential lots fronting McCreary Road.
- The applicant is proposing to rezone the property from 'A' Agricultural to 'RR2' Rural Residential 2.
- The proposed development complies with the Wilkes South Secondary Plan, which allows for 2.5 acre residential subdivision on McCreary Road, subject to minimum lot widths of 130 feet.

Site Description:
The subject property is 19.6 acres located on the northwest corner of McCreary Road and Wyper Road in the Wilkes South neighbourhood of the Charleswood Ward. The site is vacant land zoned 'A' Agricultural. Adjacent properties include residential dwellings to the north zoned 'A' Agricultural and 'RR2' Rural Residential and large-lot residential to the west zoned 'A' Agricultural. Fort Whyte Nature Center is located to the east across McCreary Road. Lands to the south, across Wyper Road, are in the R.M. of MacDonald.

Background:
The property is composed of the residual of river lots 18 and 19 of the outer two miles of the Parish of Saint Charles.

Description of the Proposed Development:
The applicant would like to develop seven (7) new rural residential lots fronting McCreary Road. Six of the proposed lots fronting McCreary will be **740 feet deep by 147 feet wide** and **2.5 acres** in area. The most southerly lot, at the corner of Wyper Road and McCreary, is irregularly shaped and is approximately **740 feet deep by 150 feet wide** and **3.944 acres** in area.

Analysis:
PLAN WINNIPEG
The proposed development complies with Plan Winnipeg and is within an area identified as being covered by a secondary plan that allows the subdivision of land without a full range of municipal services.

SECONDARY PLANS
The proposed development complies with the Wilkes South Secondary Plan which permits 2.5 acre residential subdivision on McCreary road.

ZONING

- **'A' Agricultural** minimum lot size of 40 acres.
  - Site width requirement of 300 feet.
  - Side yards requirements are 25 feet.
  - Front yard requirement is 100 feet.
  - Rear yard requirement is 25 feet.

- **'RR 2' Rural Residential 2 District** minimum lot size of 2 acres.
  - Site width requirement of 130 feet.
  - Side yard requirements are 25 feet.

- Front yard requirement is 50 feet.
- Rear yard requirement is 25 feet.
- Maximum building height is 35 feet.

COMPATIBILITY
The proposed 2.5 acre lots are in keeping with the residential character of the existing rural residential development in the area.

TRANSPORTATION AND SITE ACCESS
The seven (7) lots will have access onto McCreary Road. McCreary Road is a rural cross section asphalt surfaced right-of-way. Wyper Road, running west of McCreary Road, is gravel surfaced improved right-of-way and there will be no access to any of the lots from this public road. Finkelstein Road, running east of McCreary Road, is an un-improved right-of-way.

INFRASTRUCTURE IMPACTS
There are no municipal services in McCreary Road. Water will be provided by individual land owners. Wastewater will be managed with a private septic system designed in accordance with Schedule "B" of the Wilkes South Secondary Plan.

SITE DESIGN ISSUES
The proposed site design is consistent with the existing rural residential development to the north along the east side of McCreary Road.

LAND DEDICATION
When a developer rezones and/or subdivides a parcel of land, they are required to put in an application with the City of Winnipeg. As a condition of rezoning or subdivision, a developer is required to contribute a portion of the land to be developed to the City for parks purposes. The amount of lands is not less than 10%. The developer will provide land or 'cash in lieu' as determined by the Planning, Property and Development Department. If dedication is 'cash in lieu' of land, then the developer is required to pay the City its share of the costs of landscaping and services that it would have expended had a dedication of the land been made, which will equal 10 %.

Recommendation:
The Planning and Land-Use Division supports rezoning of the property from 'A' Agricultural. The new zoning designation will complement the existing development to the north along McCreary Road. The Plan of subdivision is consistent with the lot configuration to the north along McCreary Road.

Recommended Conditions of Approval:

1. That the plan of subdivision proposed under File DASZ 22/2009 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 22/2009 dated October 13, 2009, for 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 September 30, 2009.

2. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule “A” for File DASZ 22/2009 dated October 13,2009 to a “R2” Residential District.

3. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land and the creation of additional lots.

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

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 Servicing Agreement.

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.

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 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: Bryan Ward
October 13, 2009
PPD File # DASZ 22/09

Schedule "A" for File No. DASZ 22/09, Assiniboia Community Committee, dated October 13, 2009

By-Law No. _____

File No. **DASZ 22/09**

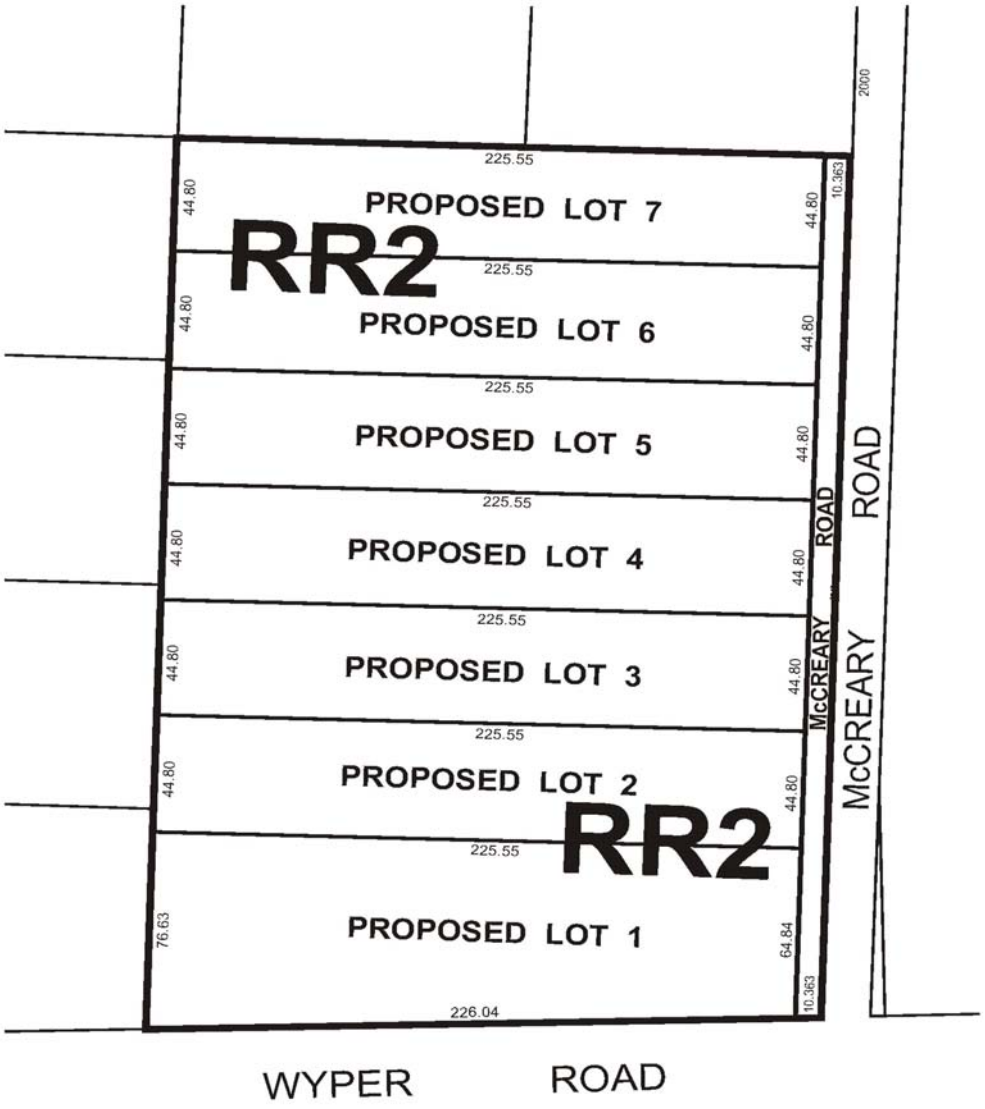
Atlas Sheet No.

N

AJ18
ASSINIBOIA
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. 200/2006 by rezoning the land located at NW Corner of McCreary Road and Wyper Road from an "A" AGRICULTURAL DISTRICT to an "RR2" RURAL RESIDENTIAL 2 DISTRICT as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

SCHEDULE B: REPORT OF THE ADMINISTRATIVE CO-ORDINATING GROUP

RE: PROPOSED SUBDIVISION OF LAND AT NORTHWEST CORNER OF McCREARY ROAD & WYPER ROAD - DASZ 22/09

It is recommended that the approval of DASZ 22/09 be subject to the following:

A. Plan Considerations

The applicant shall transfer and legally open, at no cost to the City, property required for a 1.825-m (5.99 ft) widening to the Wyper Road right-of-way along the full length of the applicant's property abutting Wyper Road.

B. Servicing Agreement

The applicant entering into a **Servicing Agreement** with the City of Winnipeg, containing the following conditions:

1. 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.

2. 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 issuance of any Building Permits, as determined by, and to the satisfaction of, the Director of Water & Waste.

3. 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.

4. The water services for the Planned Area shall be private.

5. The wastewater sewer services for the Planned Area shall be private, and shall conform to the City's Wilkes South Secondary Plan and Sewer By-law.

6. 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.

7. The Developer shall pre-pay its share of the cost of the perpetual oiling and gravelling of Wyper Road for the full length of the proposed subdivision abutting Wyper Road, as determined by the Director of Public Works.

8. There shall be no access to the proposed Lot 1 off Wyper Road.

9. 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.

10. The Developer shall pay all costs associated with the installation and/or relocation of street lights and other utilities made necessary as a result of, or required to accommodate, the works to be constructed by the Developer to serve the Planned Area, as determined by, and to the satisfaction of, the Director of Public Works.

11. 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 buildings, until completion of all construction, as determined by, and to the satisfaction of, the Director of Public Works.

12. 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.

13. The Developer shall pay the full cost of engineering services provided by or on behalf of the City in connection with the grading of the Planned Area.

14. The Developer shall pay to the City $1,650.00 plus GST to defray the City's administration and related costs associated with the preparation and implementation of the Servicing Agreement.

THIS REPORT SUBMITTED BY:

Administrative Co-ordinating Group
File No. DASZ 22/09
September 30, 2009

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

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

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