Minute No. 643
Report – Standing Policy Committee on Property and Development – October 4, 2011

Item No. 11 **Servicing Agreement Amendment - 990 John Bruce Road (St. Boniface Ward) File DASZ 30/2010**

COUNCIL DECISION:

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

1. That Clause A.1. Plan Considerations of the report of the Administrative Coordinating Group for application DASZ 30/2010 be amended by adding the following words to the end of the paragraph:

   ", except that portion of the Tascona Road fronting Proposed Lots 4, 5 & 6 shall not be opened at this time but shall be opened at no expense to the City in the future by registration of a Street opening plan (DAO application) prior to the issuance of building permits on any of Proposed Lots 4, 5 and 6."

2. That Clause B.1. of the report of the Administrative Coordinating Group for application DASZ 30/2010 be amended to allow that:

   A. Payment for services installed by others in John Bruce Road East fronting Proposed Lot 3 (998 John Bruce Road East) be made prior to the release of a building permit on that lot.

   B. Payment for services installed by others in John Bruce Road East fronting Proposed Lots 1 & 2 (990 and 994 John Bruce Road East) be made by December 31, 2012.

   C. Payment for services installed by others in Tascona Road fronting Proposed Lots 4, 5 & 6 shall be made prior to the release of the street opening mylars for registration in Land Titles.

3. 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 – October 4, 2011

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 12, 2011, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee both with the following amendment:

- In Recommendation 1, strike out the wording ″the 0.3m wide control strip shall not be opened fronting Proposed Lots 4, 5 & 6" and replace it with the wording ″Tascona Road fronting Proposed Lots 4, 5 & 6 shall not be opened",

and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 4, 2011, 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 September 19, 2011, the Riel Community Committee did not concur recommendation of the Winnipeg Public Service forwarded the following recommendations to the Standing Policy Committee on Property and Development:

1. That Clause A.1. Plan Considerations of the report of the Administrative Coordinating Group for application DASZ 30/2010 be amended by adding the following words to the end of the paragraph:

Report – Standing Policy Committee on Property and Development – October 4, 2011

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

", except that portion of the 0.3m wide control strip shall not be opened fronting Proposed Lots 4, 5 & 6 at this time but shall be opened at no expense to the City in the future by registration of a Street opening plan (DAO application) prior to the issuance of building permits on any of Proposed Lots 4, 5 and 6."

2. That Clause B.1. of the report of the Administrative Coordinating Group for application DASZ 30/2010 be amended to allow that:

   A. Payment for services installed by others in John Bruce Road East fronting Proposed Lot 3 (998 John Bruce Road East) be made prior to the release of a building permit on that lot.

   B. Payment for services installed by others in John Bruce Road East fronting Proposed Lots 1 & 2 (990 and 994 John Bruce Road East) be made by December 31, 2012.

   C. Payment for services installed by others in Tascona Road fronting Proposed Lots 4, 5 & 6 shall be made prior to the release of the street opening mylars for registration in Land Titles.

ADMINISTRATIVE REPORT

Title: **Request to Amend Conditions of Council Approval**
File DASZ 30/10 – 990 John Bruce Road

Critical Path: **Riel Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
Kim Raban Land Development Administrator	Barry Thorgrimson, A/Director	N/A	N/A

RECOMMENDATIONS

1. That Clause B.1. of the report of the Administrative Coordinating Group for application DASZ 30/2010 be amended to allow that payment for services installed by others in John Bruce Road East fronting proposed Lot 3 (998 John Bruce Road East) be made prior to the release of building permit on that lot.

2. That the Proper Officers of the City be authorized to do all things necessary to implement Committee's recommendation.

REASON FOR THE REPORT

Council approval is required to amend conditions imposed on subdivision and rezoning applications by Council.

IMPLICATIONS OF THE RECOMMENDATIONS

N/A

HISTORY

On April 23, 2008 Council approved development application DASZ 4/2008 to subdivide and rezone the lands at 990 John Bruce Road. The following Clause was included in the report of the Administrative Coordinating Group;

> *1. The Developer shall prior to the issuance of building permits pay its share of the cost of the services installed by others in John Bruce Road East and in Tascona Road as determined by the Director of Planning, Property and Development.*

Development application DASZ 4/2008 subsequently expired because the by-law provisions were not enacted within the allotted 24 month time frame.

On April 27, 2011 Council approved a new application DASZ 30/2010 to subdivide and rezone the lands at 990 John Bruce Road including the following Clause;

> *"B. 1. The Developer shall prior to release of subdivision mylars for registration in Land Titles pay its share of the cost of the services installed by others in John Bruce Road East and in Tascona Road as determined by and to the satisfaction of the Director of Public Works and the Director of Water and Waste".*

On September 1, 2011 the Developer requested that Clause B.1. be amended to allow for certain payments to be made prior to release of building permits on a lot by lot basis.

Discussion:
The Developer is requesting the same consideration that was given under former application DASZ 4/2008 ie; to delay payment for services installed by others in John Bruce Road East and in Tascona Road until prior to the issuance of building permits on a lot by lot basis.

The Winnipeg Public Service has been amenable to this practice in the past however it should be noted that it does result in elevated administrative involvement (registering caveats, tracking payments, etc) as well as potential delays in issuing building permits because new property owners may not be aware that outstanding payments are caveatted to the lands at the time of their purchase.

Upon detailed review however, we find that the Developer's request can only be accommodated for one of the seven (7) lots being created under development application DASZ 30/2010, for the following reasons;

John Bruce Road East (990, 994 and 998 John Bruce Road) (See Appendix "A")

A house already exists on proposed Lot 1 and there is a dwelling under construction on proposed Lot 2. Therefore proposed Lot 3 (998 John Bruce Road East) is the only available undeveloped lot on John Bruce Road that would be eligible for the application of a building permit and thus qualify for the requested amendment.

Lot 7 – DASZ 30/10 (See Appendix "B")

Lot 7 is ancillary to the 6 individual building lots being created under DASZ 30/2010. Acknowledging that while a building permit could be requested/issued for Lot 7 upon completion of DASZ 30/2010, Committee is advised that on July 20, 2011 Council approved Development application DASZ 12/11
(See Appendix "B") which includes the Lot 7 lands for further subdivision and as such, it is not likely that a building permit will be issued for Lot 7 in the configuration established by DASZ 30/2010. Accordingly, payment for services associated with Lot 7 should therefore be paid prior to release of the subdivision mylars.

Tascona Road – Control Strip

A development control strip was established along Tascona Road by registration of Plans under Development application DASZ 19/2000. The City is obliged under Development Agreement AG 19/2000 to collect a share of the servicing costs along Tascona Road prior to permitting access across this development control strip. The City's means of ensuring that it will not breach its obligation is to collect payment for the services installed therein prior to the release of subdivision mylars for registration in Land Titles.

FINANCIAL IMPACT

There is no financial impact associated with this recommendation.

CONSULTATION

In preparing this Report there was consultation with:

N/A

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Development and Inspections
Prepared by:	Kim Raban / Rob Deighton, Land Development Branch
Date:	September 12, 2011
File No.	DASZ 30/10

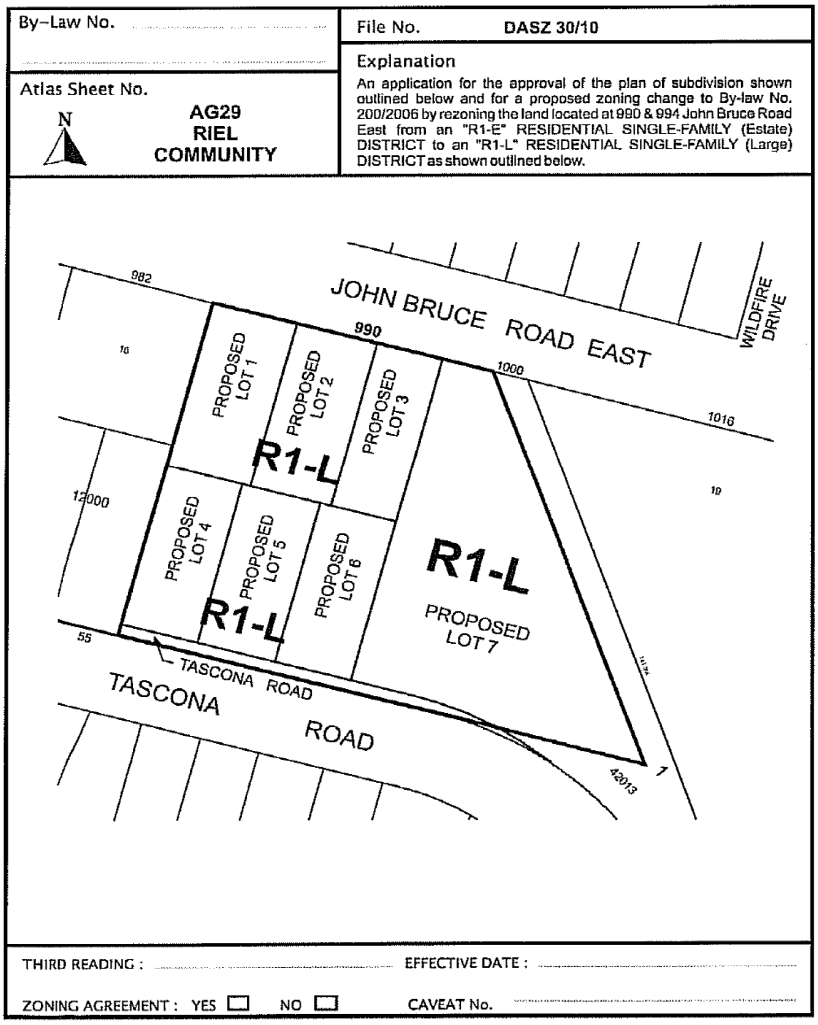
Appendix "A" – DASZ 30/10 map
Appendix "B" – DASZ 12/11 map
Appendix "C" – Request correspondence from the Developer

V:\11-ACG Reports & others\2011\DASZ 30 10 Request to Amend Conditions of Council Approval.doc

APPENDIX "A" – DASZ 30/2010 Map

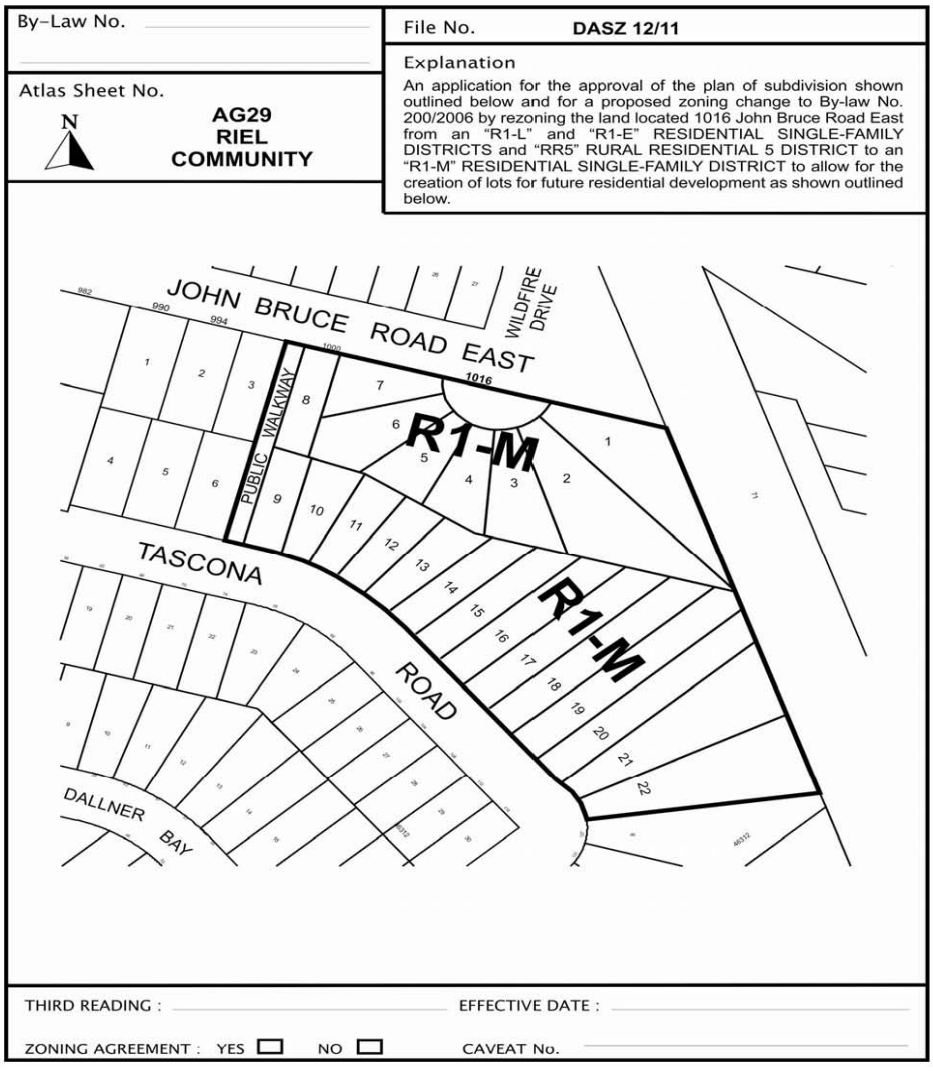
Proposed Lot 1 = 990 Proposed Lot 2 = 994 Proposed Lot 3 = 998 John Bruce Road East

Schedule "A" for File No. DASZ 30/2010, Riel Community Committee, dated February 25, 2011



APPENDIX "B" – DASZ 12/2011 Map

Schedule "B" for File No. DASZ 12/2011, Riel Community Committee, dated June 16, 2011



APPENDIX "C" – Request correspondence from the Developer

Hello Mr Raban:

RE: PROPOSED SUBDIVISION AND REZONING OF LAND LOCATED AT 990 & 994 JOHN BRUCE RD E - DASZ30/10

We are asking to amend **Clause 1 of Item B Servicing Agreement** on Page 22 of the Council Minutes dated April 27, 2011, as follows.

The Developer shall prior to the ***issuance of building permits on a lot by lot basis*** pay its share of the cost of the services installed by others in John Bruce RD E and in Tascona RD as determined by and to the satisfaction of the Director of Public Works and the Director of Water and Waste.

Thank you in advance for your anticipated cooperation in this matter.

Frank & Carol Manfredi

Please be advised that in our initial application for subdivision, our intention was to pay the costs on a lot by lot basis as indicated when filling out the forms. This request was approved by the City. Unfortunately, as a result of delays, the original subdvision approval expired. Upon discussions with Shirley Matile at Planning, Property & Development, the City agreed to incur all costs, refile all necessary papers and applications on our behalf. However, when doing so, they failed to request the costs be paid on a lot by lot basis (as requested on my initial application and subsequently approved by counsel). This was obviously an oversight. As a result, this latest subdivision approval is asking we make a $290,652.90 lump sum payment prior to the subdivision going ahead. This is contrary to what was originally approved by counsel. We would therefore kindly request your assistance in reviewing this matter so that we can pay all associated costs on a lot by lot basis as my original application requested as as counsel previously approved.

We have undertaken other projects based on the original approval by counsel and are not in a position to pay this large sum of money in one payment. Again, our understanding was that these fees would be paid prior to the issuance of building permits on a lot by lot basis .

We would ask that you kindly review this matter and thank you in advance.
Should you require further information, please feel free to contact me (Frank Manfredi) at 999-4468.

RECEIVED
SEP 0 1 2011
LAND DEVELOPMENT
DASZ 30/10 (AG 30/10)