Minute No. 612
Report – Standing Policy Committee on Property and Development – September 10, 2013

Item No. 11 **Extension of Time – Subdivision and Rezoning – 535 Ham Street (Transcona Ward)**
File DASZ 21/2009

COUNCIL DECISION:

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

1. That the time limit to provide for coming into force of rezoning By-law No. 65/2010 under File DASZ 21/2009 be extended to June 30, 2014.

2. 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 – September 10, 2013

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 September 18, 2013, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 10, 2013, the Standing Policy Committee on Property and Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 16, 2013, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded to the Standing Policy Committee on Property and Development.

ADMINISTRATIVE REPORT

Title: **EXTENSION OF TIME – PROPOSED SUBDIVISION AND REZONING OF LAND AT 535 HAM STREET - FILE NO. DASZ 21/2009**

Critical Path: **East Kildonan - Transcona Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	Barry Thorgrimson, Director	N/A	N/A

RECOMMENDATIONS

That the time limit to provide for coming into force of rezoning By-law No. 65/2010 under File No. DASZ 21/2009 be extended to June 30, 2014.

REASON FOR THE REPORT

Council approval is required for an extension of time.

IMPLICATIONS OF THE RECOMMENDATIONS

The applicant will be granted an extension of time in order to allow for the registration of the plan of subdivision at Winnipeg Land Titles and execution of the required Servicing Agreement for DASZ 21/2009 to satisfy By-law No. 65/2010 coming into force requirements.

HISTORY

On November 25, 2009, Council adopted Item No. 2 of the report of the Standing Policy Committee on Property and Development dated November 3, 2009 which clause recommended

approval of the subject subdivision and rezoning to a "R1-M" RESIDENTIAL SINGLE FAMILY (Medium) DISTRICT as shown on Appendix "A" attached to allow for the creation of three (3) additional residential lots fronting onto Williamson Crescent for future development.

Recommendation 5 contained in said report stipulates:

> "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."

On June 23, 2010, By-Law No. 65/2010 was enacted by the passage of City Council. Section 3, Coming into force stipulates:

> "3(1) Section 1 comes into force when The City of Winnipeg executes the Servicing Agreement referred to in that section, which execution notwithstanding passage of this By-law shall remain in the absolute discretion of City Council.
>
> (2) Section 2 comes into force when the plan of subdivision is registered in the Winnipeg Land Titles."

By-law No.65/2010 has not come into force by the registration of the Plan of Subdivision and the one year time limit for plan registration has expired. Further the required Servicing Agreement has been prepared but has yet to be executed by the Developer.

The current owner's representative, Mr. David King of Taylor McCaffrey LLP, 9th floor, 400 St. Mary Avenue is requesting an extension of time in order to complete the necessary Servicing Agreement and plan registrations, see attached Appendix "B". The subject property has been for sale and an offer to purchase the property and complete the application requirements are subject to the by-law extension approvals by Council.

The Winnipeg Public Service has reviewed the request for the extension of time and is of the opinion that approval of the subject extension of time is acceptable, and circumstances leading to the original approval remain unchanged.

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: Land Development, Geomatics, and Land Information Services
Prepared by: Rob Deighton, Land Development Branch
Date: July 2, 2013
File No. DASZ 21/2009
Appendix "A" – DASZ 21/2009 map
Appendix "B" – Time extension request correspondence

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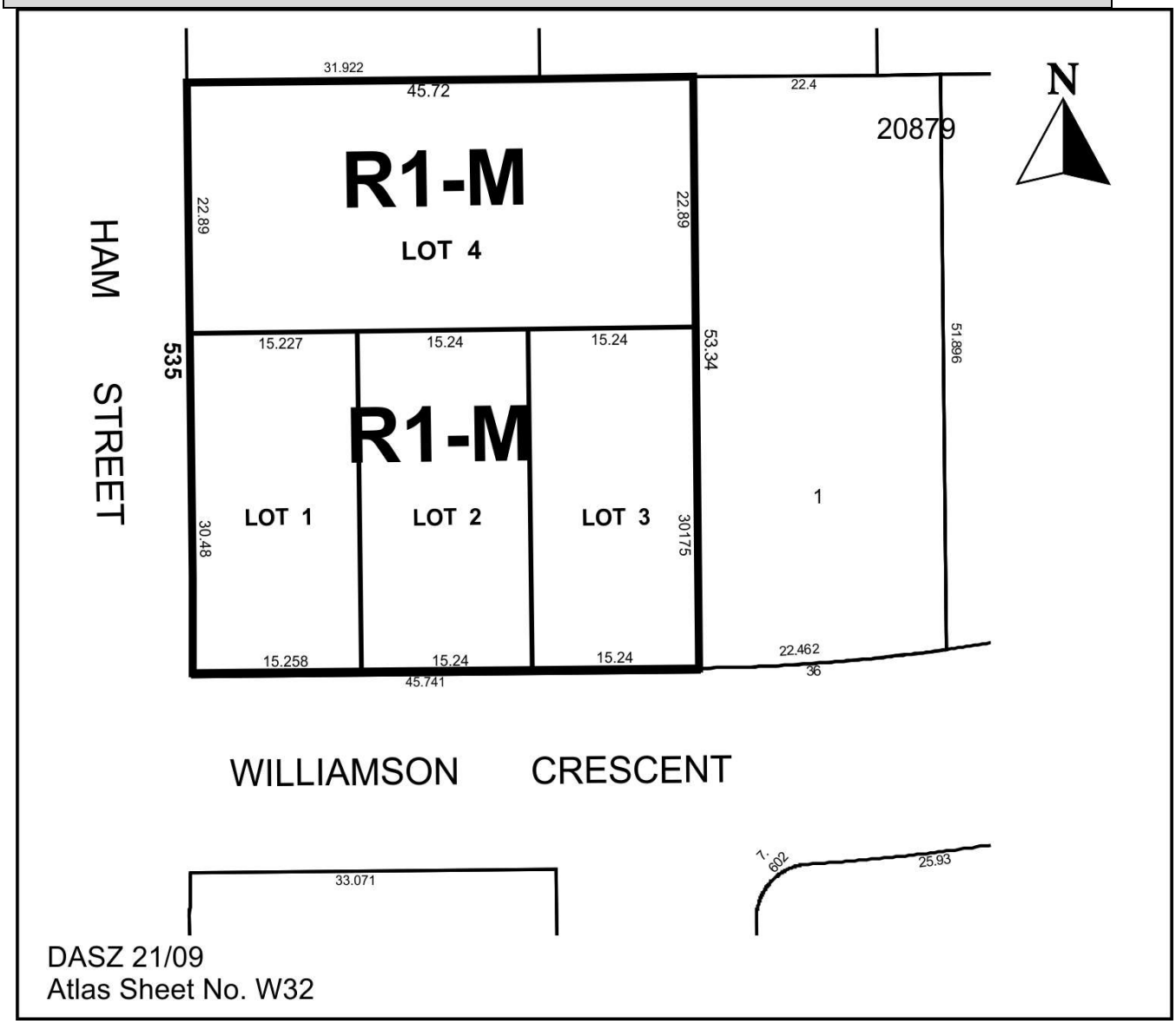
APPENDIX "A" – DASZ 21/2009 – map



APPENDIX "B" – Time Extension Request Correspondence

TAYLOR McCAFFREY LLP
BARRISTERS & SOLICITORS

Taylor McCaffrey LLP
David C. King
Professional services provided through
David C. King Law Corporation
Direct Line: 204 988-0420
Direct Fax: 204 953-7181
E-Mail: dcking@tmlawyers.com
Assistant: Cynthia Mak
Direct Line: 204 988-0423

July 2, 2013

R. Deighton
Land Development Branch
City of Winnipeg
Main Floor, 65 Garry Street
Winnipeg, MB R3C 4K4

Via Email: RDeighton@winnipeg.ca

Dear Sir:

Re: DASZ 21/09 – 535 Ham Street
Lloyd Yang (the "Owner")
Our File No. 86135-1 DKING

Further to our recent emails with respect to this matter we wish to confirm that we are writing to you in our capacity as solicitors for the Owner.

As previously noted we request that By-law No. 65/2010 be extended.

Since the Servicing Agreement, etc., were negotiated and the By-law was passed the Owner's personal and financial circumstances have changed significantly thereby impairing his ability to complete the subdivision. Our client has also had negotiations with several developers which have also fallen through. Now, however, we have an Offer to Purchase from Giancola Construction Ltd. which will now probably proceed so as long as the Owner can transfer his rights to the Servicing Agreement, etc., to the Purchaser. It is therefore necessary that the aforementioned By-law be extended.

If you have any questions or require anything further let me know.

Yours truly,

TAYLOR McCAFFREY LLP

Per:

David C. King

DCK\cm