Agenda - Executive Policy Committee – February 19, 2014

Moved by Councillor

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than 96 hours preceding the committee meeting, be considered by Committee.

Report - Standing Policy Committee on Property and Development – February 18, 2014

Item No. 9 Extension of Time – 60/70 Whellams Lane
(North Kildonan Ward)
File DAS 15/2009

STANDING COMMITTEE RECOMMENDATION:

On February 18, 2014, the Standing Policy Committee on Property and Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the following to Council:

1. That the time limit for the owner to register, in the land titles office, the plan of subdivision approved by By-law No. 83/2011 (as amended by By-law No. 100/2011) be extended to December 31, 2015.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Agenda - Executive Policy Committee – February 19, 2014

Report - Standing Policy Committee on Property and Development – February 18, 2014

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On February 18, 2014, 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 January 21, 2014, 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 ON LAND LOCATED AT 60/70 WHELLAMS LANE - FILE NO. DAS 15/2009**

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	N/A	N/A

RECOMMENDATIONS

That the time limit for the owner to register, in the land titles office, the plan of subdivision approved by By-law No. 83/2011 (as amended by By-law No. 100/2011) be extended to December 31, 2015.

REASON FOR THE REPORT

Council approval is required for an extension of time to register a plan of subdivision in the Land Titles Office.

IMPLICATIONS OF THE RECOMMENDATIONS

The applicant, Devonshire Properties Inc. will be granted an extension of time in order to complete the registration of the Plan of Subdivision at Winnipeg Land Titles Office.

HISTORY

On July 22, 2009 Council adopted Item No. 7 of the report of the Standing Policy Committee on Property and Development dated June 30, 2009 which recommended approval of the subject development application as shown on Appendix "A" attached.

On July 20, 2011 By-law No. 83/2011 was passed by Council and, on September 28, 2011 an amending By-law No. 100/2011 was passed by Council to correct an error in By-law No. 83/2011 by striking out the plan of subdivision and substituting a corrected plan of subdivision.

On April 17, 2013 the applicant's lawyer asked the City what matters were still outstanding with regard to continued processing of development application DAS 15/2009.

On April 18, 2013 the City, amongst other things, advised that pursuant to The City of Winnipeg Charter s. 266(2)(a) their client's plan of subdivision needed to be registered in the Winnipeg Land Titles Office within one year of the passing of the by-law, failing which their client is required to apply to the City for an extension of time within which to complete registration of the plan of subdivision in the Winnipeg Land Titles Office. To date the plan of subdivision has not been registered and the one year time limit has expired.

Charles L. Chappell (Aikins Law Office) is requesting an extension of time on behalf of the owner, Devonshire Properties Inc. and has provided the following reasons why the plan of subdivision was not registered in the Winnipeg Land Titles Office within one year.

1. The provisions of By-law 83-2011 and associated files for a variation order and conditional use order were challenged by adjoining land owners. The Court of Queen's Bench issued Reasons for Decision dated November 22, 2010 and an Order was entered on January 5, 2011 in the Court of Queen's Bench dismissing the application.

2. The task of exchanging land and registering the necessary plans for road closure and the dyke and lane opening was delayed because of the legal challenges.

See letter attached as Appendix "B".

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

FINANCIAL IMPACT

There is no financial impact associated with this recommendation.

CONSULTATION

In preparing this Report there was consultation with:
Legal Services Department (as to legal issues)

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Land Development, Geomatics and Land Information Systems
Prepared by:	K.T. Raban, P.Eng., Land Development Administrator
Date:	January 9, 2014
File No.	DAS 15/2009

Appendix "A" – DAS 15/2009 map
Appendix "B" – Letter Requesting Extension of time

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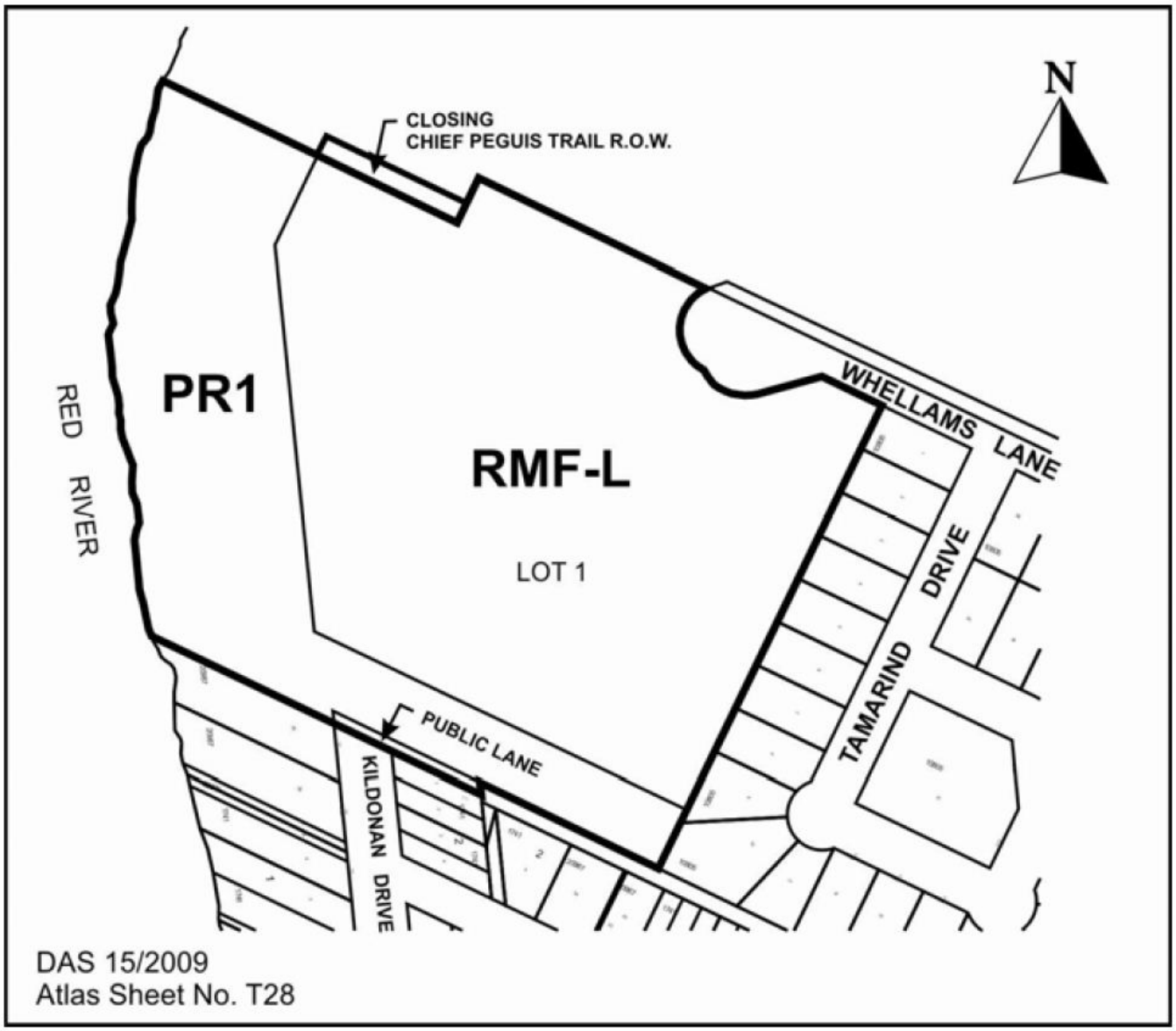
APPENDIX "A" – DAS 15/2009 MAP



amended 100/2011

APPENDIX "B" – LETTER REQUESTING EXTENSION OF TIME

AIKINS
LAW

October 11, 2013

The City of Winnipeg
Planning, Property and Development
Department
Main Floor - 65 Garry Street
Winnipeg, MB R3C 4K4

Attention: Mr. Marc Pittet

Dear Sir:

Re: DAS 15/2009 – 60 – 70 Whellams Lane

Please be advised that our office acts on behalf of Devonshire Properties Inc., the owner of the lands referred to in File No. DAS 15/2009.

Council enacted By-law 83/2011 on July 20, 2011.

One of the conditions of the by-law was that the plan of subdivision required was to be registered within a period of one year. This was not done.

The purpose of this letter is to request from the City of Winnipeg Council an extension of time for a further period of two years from the date City Council deals with this matter to register the plan of subdivision in the Winnipeg Land Titles Office.

The reasons why the plan of subdivision was not registered in the Winnipeg Land Titles Office within one year was as follows:

1. The provisions of By-law 83-2011 and associated files for a variation order and conditional use order were challenged by adjoining land owners. The Court of Queen's Bench issued Reasons for Decision dated November 22, 2010 and an Order was entered on January 5, 2011 in the Court of Queen's Bench dismissing the application.

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Canada R3C 4G1

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LEGAL ASSISTANT
Cathy Van De Vorst

Direct Line (204) 957.4738
Email cathyv@aikins.com

FILE NO.

AIKINS
LAW

2. The task of exchanging land and registering the necessary plans for road closure and the dyke and lane opening was delayed because of the legal challenges.

The applicant and owner of the land wishes to proceed with the development and is now in the process of securing new quotes to complete the project.

Should you require any further information please do not hesitate in contacting the writer.

Yours truly,

AIKINS, MACAULAY & THORVALDSON LLP

Per:

CHARLES L. CHAPPELL

CLC/cv

Mr. Martin Grady
Mr. Barry Thorgrimson
Mr. Keith Rankin
Mr. Bryan Klein