Minute No. 608
Report – Standing Policy Committee on Property and Development – September 15, 2015

Item No. 10 Request to Amend Development Agreement Conditions
File DASZ 15/2013 (AG 15/13)
(Transcona Ward)

COUNCIL DECISION:

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

1. That the Developer's request to amend Clause 14 c) - Schedule "C" of the Development Agreement for DASZ 15/2013 regarding the timing for Developer payback for Ravelston Avenue West Surface Improvements from five years to two years following construction completion, be approved.

2. That the Developer's request to amend Clause 12 b) – Schedule "C" of the Development Agreement for DASZ 15/2013 regarding the timing for Developer payback for Peguis Street Surface Improvements to two years following construction completion, be approved.

3. That the Developer's request to amend Clause 27 i) – Schedule "C" of the Development Agreement for DASZ 15/2013 regarding the timing for Developer payback for the Active Transportation Pathway along the east side of Peguis Street to two years following construction completion, be approved.

4. That the Developer's request to amend Clause 30 – Schedule "C" of the Development Agreement for DASZ 15/2013 by replacing the requirement for fencing with the requirement to install landscaping along the south, west and east sides of the Manitoba Hydro Transmission Substation, be approved.

5. That the Developer's request to amend Clause 16 i) – Schedule "C" of the Development Agreement for DASZ 15/2013 by adding the following…. "That traffic control signals shall be installed once Devonshire Drive and Peguis Street are connected", be approved.

6. That the Developer's request to amend Clause 14 b) – Schedule "C" of the Development Agreement for DASZ 15/2013 to further extend the requirement to complete the paving of Ravelston Avenue West until 2016, be approved.

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 – September 15, 2015

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 23, 2015, the Executive Policy Committee concurred in the recommendations 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 15, 2015, 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 14, 2015, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

On June 16, 2015, the East Kildonan-Transcona Community Committee laid over the matter to its meeting on July 14, 2015.

On May 12, 2015, the East Kildonan-Transcona Community Committee granted an extension of time of 30 days for the Winnipeg Public Service to provide a revised report which considers the additional amendments proposed by the applicant, as outlined in Attachment A.

On April 20, 2015, the East Kildonan-Transcona Community Committee laid over the matter to its meeting on May 12, 2015, and directed the Winnipeg Public Service to provide a revised report which considers the additional amendments proposed by the applicant, as outlined in Attachment A.

On March 16, 2015, the East Kildonan-Transcona Community Committee laid over the matter to its meeting on April 20, 2015.

ADMINISTRATIVE REPORT

Title: **REQUEST TO AMEND DEVELOPMENT AGREEMENT CONDITIONS FOR FILE DASZ 15/2013 (AG 15/13)**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
K. Raban	M. Pettit		

RECOMMENDATIONS

1. That Committee considers the Developer's request to amend Clause 14 c) - Schedule "C" of the Development Agreement for DASZ 15/2013 regarding the timing for Developer payback for Ravelston Avenue West Surface Improvements from five years to two years following construction completion.

2. That Committee considers the Developer's request to amend Clause 12 b) – Schedule "C" of the Development Agreement for DASZ 15/2013 regarding the timing for Developer payback for Peguis Street Surface Improvements to two years following construction completion.

3. That Committee considers the Developer's request to amend Clause 27 i) – Schedule "C" of the Development Agreement for DASZ 15/2013 regarding the timing for Developer payback for the Active Transportation Pathway along the east side of Peguis Street to two years following construction completion.

4. That Committee considers the Developer's request to amend Clause 30 – Schedule "C" of the Development Agreement for DASZ 15/2013 by replacing the requirement for fencing with the requirement to install landscaping along the south, west and east sides of the Manitoba Hydro Transmission Substation.

5. That Committee considers the Developer's request to amend Clause 16 i) – Schedule "C" of the Development Agreement for DASZ 15/2013 by adding the following…. "That traffic control signals shall be installed once Devonshire Drive and Peguis Street are connected".

6. That Community considers the Developer's request to amend Clause 14 b) – Schedule "C" of the Development Agreement for DASZ 15/2013 to further extend the requirement to complete the paving of Ravelston Avenue West until 2016.

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

REASON FOR THE REPORT

Council authority is required to amend Development Agreement conditions.

IMPLICATIONS OF THE RECOMMENDATIONS

Recommendation 1:
Capital Budget funding approval will be required within two years of the completion of the said work (expected to be complete in 2015) to fulfill the City's contractual obligation for this Developer payback.

Recommendation 2:
Capital Budget funding approval will be required in 2016 to fulfill the City's contractual obligation for this Developer payback. This work was considered Substantially Complete on November 14, 2014.

Recommendation 3:
Capital Budget funding approval will be required within two years of the completion of the said work (expected to be complete in 2015) to fulfill the City's contractual obligation for this Developer payback.

Recommendation 4:
No implications. This request has been made to address Manitoba Hydro safety concerns related to the provision of adequate visibility at the Manitoba Hydro Substation.

Recommendation 5:
No implications from a financial viewpoint in that the costs to install the traffic signals will be borne 100% by Development Agreements DA 15/2013 and DA 11/2013.

Recommendation 6:
Delaying the installation of pavement on Ravelston Avenue West will allow for the orderly installation of underground works currently planned under DASZ 11/2011.

HISTORY

On July 17, 2013, Council approved minute 534, the subdivision and rezoning of land located at the northwest corner of Ravelston Avenue West and Peguis Street under file DASZ 15/2013 to allow for a future residential development including the establishment of new public rights-of-way as shown on the sketch attached as Appendix "A".

On July 16, 2014, Council approved minute 676, several amendments to DASZ 15/2013, including an amendment to allow the use of asphalt pavement as an alternative to Portland cement concrete pavement in Ravelston Avenue West.

On July 16, 2014, Council approved minute 678, several amendments to DASZ 15/2013, not related to the recommendations listed above.

On September 4, 2014, Council approved minute no. 764, several amendments to DASZ 15/2013, including the reduction of road width to be constructed on Ravelston Avenue West from 10.0 m to 7.5m.

Discussion: Recommendation 1

The Developer, Waterside Development Corporation, represented by Ray Klassen of R.G. Klassen Consulting Inc. has requested that consideration be given to amend Clause 14 c) – Schedule "C" of the Development Agreement for DASZ 15/2013 to shorten the City Capital Funding payback provisions from five (5) years to two (2) years following completion of the works. See attached correspondence dated December 12, 2014, item 1, Appendix "B".

The Winnipeg Public Service has indicated Capital Funding for payback in 2017 is identified in the 2015 preliminary budget. This would satisfy the obligations created by the requested amendment.

Discussion: Recommendation 2

The Developer has also requested that consideration be given to amend Clause 12 b) – Schedule "C" of the Development Agreement for DASZ 15/2013 to reimburse the Developer within two years following completion of the works. See attached correspondence dated December 12, 2014, item 2, Appendix "B".

It should be noted that according to the existing agreement, payback provisions for this work would be identified through subsequent agreements from other befitting privately owned lands. Funds have not identified for Developer reimbursement from the Capital Funding budget.

Discussion: Recommendation 3

The Developer has also requested that consideration be given to amend Clause 27 i) – Schedule "C" of the Development Agreement for DASZ 15/2013 to reimburse the Developer within two years following completion of the works. See attached correspondence dated December 12, 2014, item 3, Appendix "B".

It should be noted that according to the existing agreement, payback provisions for this work would be identified through subsequent agreements from other befitting privately owned lands. Funds have not been identified for Developer reimbursement from the Capital Funding budget.

Discussion: Recommendation 4

The Developer has also requested that consideration be given to amend Clause 30 – Schedule "C" of the Development Agreement for DASZ 15/2013 to delete the requirement for fencing around the hydro station land and provide landscaping. See attached correspondence dated December 12, 2014, item 4, Appendix "B".

In so far as Manitoba Hydro has expressed concern regarding the safety issues related to the proposed fencing and obstruction issues, the Public Service has no objections to amending this clause.

Discussion: Recommendation 5

The Developer has also requested that consideration be given to amend Clause 16 – Schedule "C" of the Development Agreement for DASZ 15/2013 to provide greater certainty and timing for the installation of traffic control signals at Peguis Street and Devonshire Drive, which serve as the main ingress and egress to the community.

The costs to supply and install the traffic signals will be borne 50% by this development application and 50% by the adjacent development application west of Peguis Street.

Discussion: Recommendation 6

The Developer has also requested that consideration be given to amend Clause 14 b) – Schedule "C" of the Development Agreement for DASZ 15/2013 to allow the Developer addition time to complete the paving of Ravelston Avenue West to facilitate servicing installation along Ravelston under DASZ 11/2011.

Differing the paving until the underground servicing are installed will permit the logical coordination and sequencing of services. There would be no financial impact to the City.

FINANCIAL IMPACT

There is no financial impact associated with these recommendations.

CONSULTATION

In preparing this Report there was consultation with:

Public Works Department

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Land Development, Geomatics and Land Information Systems
Prepared by:	Greg Jasper, P.Eng, Land Development Branch
Date:	June 8, 2015
File No.	DASZ 15/2013 (AG 15/13)

Appendix “A” – Sketch showing DASZ 15/2013
Appendix “B” – Developer’s letter dated February 9, 2015 requesting amendments
Appendix “C” – Developer’s letter dated April 2, 2015 requesting an additional amendment

APPENDIX "A" – SKETCH SHOWING DASZ 11/2011

By–Law No. _____

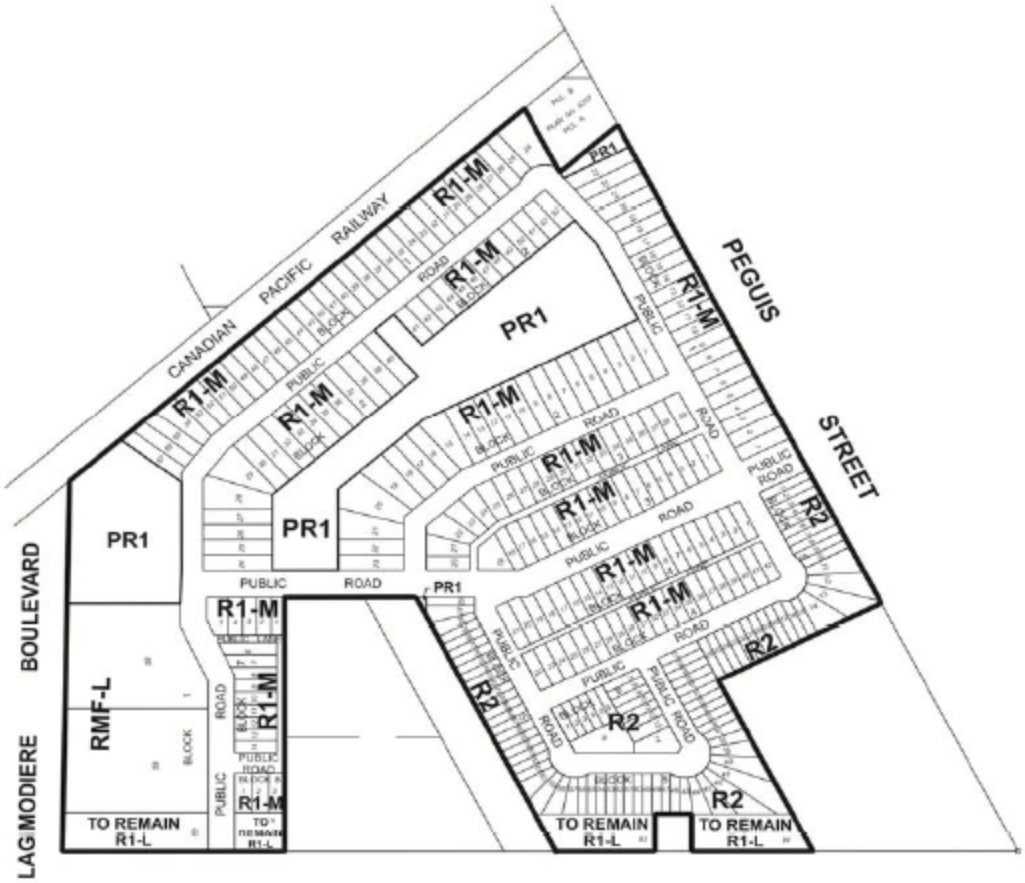
File No. **DASZ 15/13**

Atlas Sheet No. **X31**

EAST KILDONAN TRANSCONA 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 on northwest corner of Ravelston Ave W. and Peguis Street from an "RR5" RURAL RESIDENTIAL 5 DISTRICT and an "R1-L" RESIDENTIAL SINGLE-FAMILY (Large) DISTRICT to an "R1-M" RESIDENTIAL SINGLE-FAMILY (Medium) DISTRICT, "R2" RESIDENTIAL TWO-FAMILY DISTRICT, "RMF-L" RESIDENTIAL MULTI-FAMILY (Large) DISTRICT and a "PR1" PARKS AND RECREATION 1 DISTRICT to facilitate further development of the Transcona West Neighbourhood lands by the creation of blocks, lots, public reserve lands and the establishment of public right-of-ways for future residential development as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

APPENDIX "B" – DEVELOPER'S REQUEST LETTER – Dated February 9, 2105

R.G Klassen Consulting Inc.
1430 McCreary Road
Winnipeg, Manitoba R3P 0M7
Telephone: (204) 832-0605
Email: rgklassen@shaw.ca

February 9, 2015

City of Winnipeg
Planning, Property and Development Department
Land Development, Geomatics & Land Information Services Division
Land Development Branch
65 Garry Street
Winnipeg, Manitoba R3C 4K4

Attention: Mr. Greg Jasper, P.Eng.
Land Development Administrator

Dear Mr. Jasper,

RE: DASZ 15/2013 – Amendments to Development Agreement

Waterside Development Corp. is requesting that certain conditions of the Development Agreement for DASZ 15/2013 be amended because practical engineering design and implementation considerations associated with these conditions are not economically feasible. In addition, on December 10, 2014, Council approved comparable amendments related to an adjacent subdivision proposal (DASZ 11/2011) that are similar in nature and scope to those requested herein. Waterside Development Corp. has discussed the proposed amendments with the local Councillor who is supportive of the proposed amendments. We are, therefore, respectfully requesting the following amendments to the July 17, 2013 Council decision as follows:

Development Agreement AG 15/13

1. **Clause 14 c) - Schedule "C"**
   Ravelston Avenue West Improvements
   That this clause be amended by replacing five years with 2 years to read as follows: Within two years after substantial completion of the work in Clause a) (as amended), the City will reimburse the Developer for the portion of the cost of that work which exceeds the Developer's share of the cost of that work. Interest on the reimbursement amount will be added from the first anniversary of substantial completion of that work, in accordance with the City's Development Agreement Parameters.

Rationale:
Council approved an amendment for a two year reimbursement for Ravelston Avenue West improvements within the adjacent subdivision (DASZ 11/2011) on December 10, 2014.

2. **Clause 12 b) - Schedule "C"**
Peguis Street Improvements
That this clause be amended to read as follows:
Within two years after substantial completion of the work completed on Peguis Street, noted in Clause a), the City will reimburse the Developer for the portion of the cost of that work which exceeds the Developer's share of the cost of that work. Interest on the reimbursement amount will be added from the first anniversary of substantial completion of that work, in accordance with the City's Development Agreement Parameters.

Rationale:
Council approved an amendment for a two year reimbursement for Peguis Street improvements benefitting privately owned lands within the adjacent subdivision (DASZ 11/2011) on December 10, 2014.

3. **Clause 27 (i) - Schedule "C"**
Active Transportation Pathways
That this clause be amended to read as follows:
On the west side of Peguis Street from the CPR Keewatin Subdivision to Ravelston Avenue West. The City of Winnipeg will reimburse the Developer for work done in excess of the Developer`s proportionate share of said costs within two years of completion of said work, including an interest rate agreeable to the City of Winnipeg, and to the satisfaction of the Director of Public Works.

Rationale:
Council approved an amendment for a two year reimbursement for Active Transportation Improvements on the west side of Peguis Street that adjoin privately owned lands within the adjacent subdivision (DASZ 11/2011) on December 10, 2014.

4. **Clause 30 - Schedule "C"**
Fencing Around Manitoba Hydro Transmission Station
That this clause be amended to read as follows:
The Developer shall, at no expense to the City, install landscaping along the south, west, and east sides of the Manitoba Hydro Transmission Station, with the cooperation of Manitoba Hydro and the City, all in accordance with a plan to be approved by the East Kildonan / Transcona Community Committee.

Rationale:

The requirement for a brick or decorative cement fence would conflict with safety concerns related to the provision of adequate visibility at the high voltage Manitoba Hydro Station.

5. **Clause 16 - Schedule "C"**
   Traffic Control Signals at Peguis Street and Devonshire Drive
   That this clause be amended to read as follows:
   That traffic control signals shall be installed once Devonshire Drive and Peguis Street are connected. The Developer shall pay to the City, in cash, 50% of the costs of traffic control signals and all related works including, but not necessarily limited to pedestrian and vehicular actuation and interconnection to adjacent traffic control signals and audible pedestrian signals at the intersection of Peguis Street and Devonshire Drive.

   Rationale:
   Traffic signalization will be required once this street connection occurs in order to ensure that safe and efficient ingress and egress to and from the Crocus Meadows subdivision exists.

Please feel free to contact me if you have any questions.

Yours truly,

Ray Klassen

APPENDIX "C" – DEVELOPER'S REQUEST LETTER – Dated April 24,2015

R.G. Klassen Consulting Inc.
1430 McCreary Road
Winnipeg, Manitoba R3P 0M7
Telephone: (204) 832-0605
Email: rgklassen@shaw.ca

April 2, 2014

City of Winnipeg
Planning, Property and Development Department
Land Development, Geomatics & Land Information Services Division
Land development Branch
65 Garry Street
Winnipeg, MB R3C 4K4

Attention: Mr. Greg Jasper, P. Eng.
Land Development Administrator

Dear Mr. Jasper

RE: DASZ 15/2013 – Amendments to Development Agreement

As you are aware, Waterside Development Corp has requested that certain conditions of the Development Agreement for DASZ 15/2013 be amended because practical engineering design and implementation considerations associated with these conditions are not economically feasible. These amendments were considered by the East Kildonan/Transcona Community Committee on March 16, 2015.

The Community Committee adjourned this matter for further information. Since that time recent events have occurred, which have necessitated a request for an additional amendment.

We are, therefore, respectfully requesting the following additional amendment to the July 17, 2013 Council decision.

Additional Amendment to DASZ 15/2013- Amendment No. 6:

Development Agreement AG15/13

6. **Clause 14 b – Schedule "C"**
Ravelston Avenue West Improvements

On September 24, 2014 Council RESOLVED THAT the terms of the Development Agreement for DASZ 15/2013 be amended to allow the Developer to complete the paving of Ravelston Avenue West by the earlier of one (1) year after the connection of the most westerly north-south street entering the planned area is made to Ravelston, or 5 years after the Developer executes the Development Agreement, whichever should come first.

The connection of the most westerly north-south street entering the planned area was recently made to Ravelston Avenue West. However, construction has now commenced west of Peguis Street, along Ravelston, to facilitate the development of the subdivision approved under DASZ 11/2011. The installation of these new services will delay the orderly installation of underground and surface works on Ravelston.

Therefore, it is requested that the Development Agreement for AG 15/13 be amended to allow for a further one year deferment that will permit the logical coordination and sequencing of services.

Please feel free to contact me if you have any questions.

Yours truly,

Ray Klassen