Agenda – Council – December 9, 2015

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 30, 2015

Item No. 9 Amendment to Development Agreement AG 33/2010 – Traffic Signalization at Lilac Street and Jubilee Avenue (Fort Rouge-East Fort Garry Ward) File DASZ 33/2010

STANDING COMMITTEE RECOMMENDATION:

On December 2, 2015, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That the Developer's request to amend Clause 7 a) - Schedule "C" of the Development Agreement for DASZ 33/2010 regarding the traffic signalization requirements at the intersection of Lilac Street and Jubilee Avenue be denied.

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, Heritage and Downtown Development – November 30, 2015

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 2, 2015, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and the City Centre Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 30, 2015, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 10, 2015, the City Centre Community Committee recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development that the Developer's request to amend Clause 7 a) - Schedule "C" of the Development Agreement for DASZ 33/2010 regarding the traffic signalization requirements at the intersection of Lilac Street and Jubilee Avenue be denied.

ADMINISTRATIVE REPORT

Title: **REQUEST TO AMEND DEVELOPMENT AGREEMENT CONDITIONS FOR FILE DASZ 33/10 (AG 33/10)**

Critical Path: **City Centre Community Committee → Standing Policy Committee on Property and Development, Heritage and Downtown Development → Executive Policy Committee → Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
M Pittet	J. Kiernan		

RECOMMENDATIONS

1. That Committee considers the Developer's request to amend Clause 7 a) - Schedule "C" of the Development Agreement for DASZ 33/2010 regarding the traffic signalization requirements at the intersection of Lilac Street and Jubilee Avenue.

2. 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

HISTORY

On December 15, 2010, Council approved minute 64, the subdivision and rezoning of land west of Argue Street, east of rail right-of-way known as the Fort Rouge Yards.

As a condition of approval the Developer is required to fulfill a number of servicing obligations including the installation of traffic signals and related works as follows:

7. Traffic Signalization – Lilac Street at Jubilee Avenue

a) The Developer shall pay to the City the full cost of installation 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 Jubilee Avenue and Lilac Street when and as determined by and to the satisfaction of the Director of Public Works.

b) To guarantee the Developer's commitment to make payment to the City for the full cost of the item a) above, the Developer agrees to provide to the City, prior to the release of subdivision mylars under DASZ 33/10, and in addition to any other Letters of Credit the Developer is required to provide under this Agreement, a cash securities deposit or an irrevocable Letter of Credit in favour of the City, in amounts equal to at least 100% of the value of the estimated cost of the signalization works (2011 Signalization Estimate = $71,600), as determined by the Director of Public Works and in form satisfactory to the City Solicitor.

Traffic Signals are not yet required and as such the Developer has being providing a cash security, in accordance with clause 7 b) as noted above, which is reviewed and renewed annually. The Developer has requested an amendment to the agreement to provide the City with a cash payment for the estimated cost to install the traffic signals. This would allow the Developer to fulfill the spirit of the original agreement without being tied to a future expenditure of an unknown amount.

Specifically, the Developer is requesting that clause 7 a) be amended as follows:

> The Developer shall pay to the City the ~~**full**~~ ***estimated*** cost of installation 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 Jubilee Avenue and Lilac Street ~~**when and**~~ as determined by and to the satisfaction of the Director of Public Works, ***on or about August 1, 2015***

Public Works provided the following response to this request:

The Public Works Department does not concur with this request. To date, the pace of construction of this development has been slow and if this continues it could be a number of years until the development generates enough traffic to verify the projections of the development traffic study and/or for the Administration to receive direction from the Standing Policy Committee on Infrastructure Renewal and Public Works with regards to a traffic signal. As such, the City would be taking on a high risk of having to absorb significant inflationary costs. Please note that the Public Works Department does not support installation of traffic signals prior to being warranted or instructed by the Standing Policy Committee on Infrastructure Renewal and Public Works.

FINANCIAL IMPACT

There is no financial impact associated with these recommendations.

CONSULTATION

In preparing this Report there was consultation with:

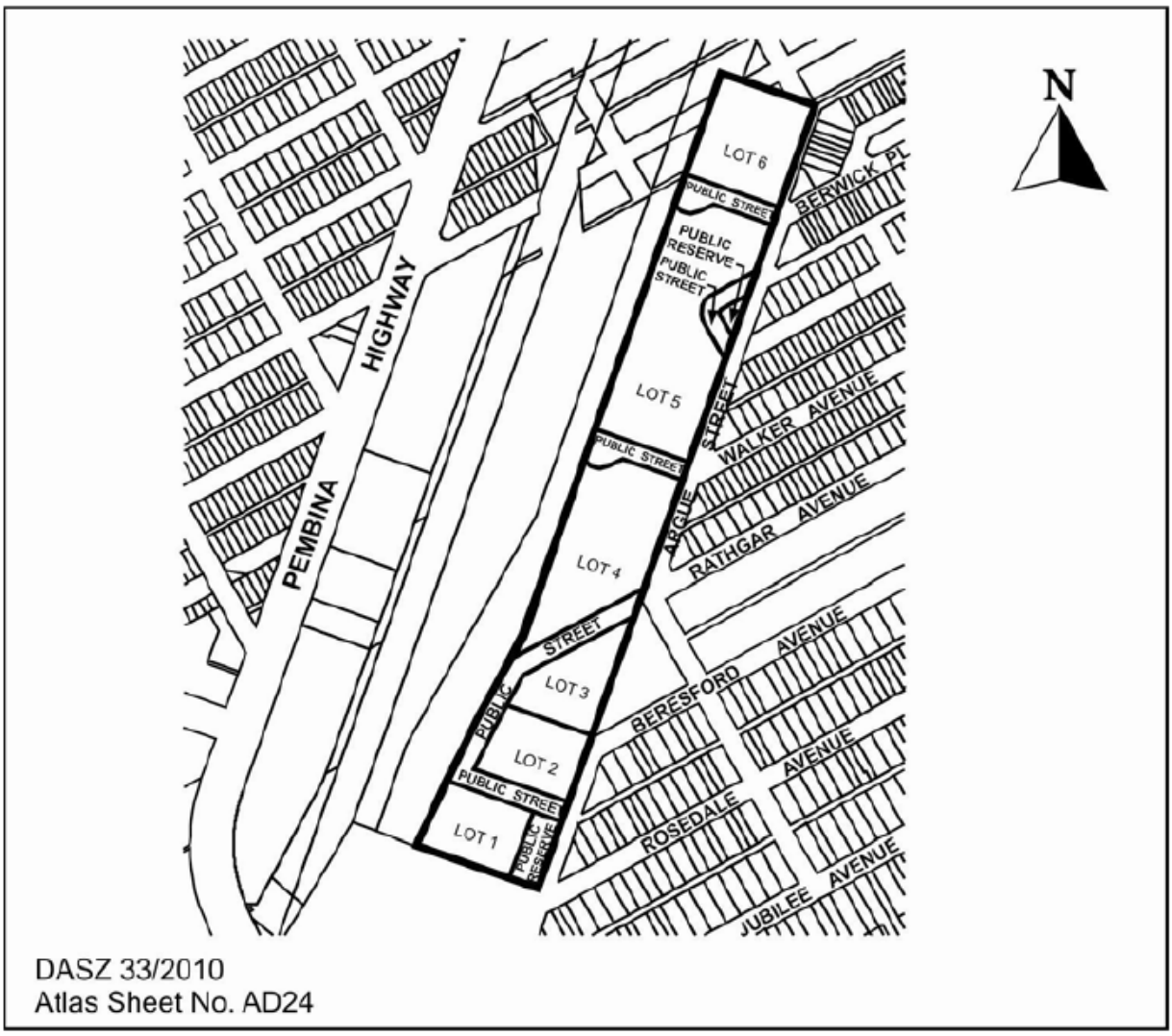
Public Works Department

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:	October 23, 2015
File No.	DASZ 33/2010 (AG 33/10)

Appendix “A” – Sketch showing DASZ 33/2010
Appendix “B” – Developer’s letter dated August 10, 2015 requesting the amendment.

APPENDIX "A" – SKETCH SHOWING DASZ 33/2010



APPENDIX "B" – DEVELOPER'S REQUEST LETTER

GEM
EQUITIES INC.

August 10, 2015

Mr.Greg Jasper, P. Eng
Acting Land Development Administrator
City of Winnipeg
Planning, Property and Development Department
Land Development Branch
Main Floor
65 Garry Street
Winnipeg, Manitoba R3C 4K4

RE: Request for amendment to agreement AG 33/10 DASZ 33/10

Dear Mr. Jasper:

I am writing to formally request an amendment to Development Agreement AG 33/10, Schedule "C", clause 7 (a). This agreement is in regard to the Yards at Fort Rouge development and the specific clause addresses traffic signalization at the intersection of Lilac Street and Jubilee Avenue.

The clause specifically states:

> "The Developer shall pay to the City the **full cost** of installation 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 Jubilee Avenue and Lilac Street **when and** as determined by and to the satisfaction of the Director of Public Works." (Emphasis added)

I respectfully request that the clause be amended to read as follows:

> "The Developer shall pay to the City the **estimated cost** of installation 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 Jubilee Avenue and Lilac Street as determined by and to the satisfaction of the Director of Public Works, **on or about August 1, 2015"**

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Creation of this amendment would allow my organization to fulfill the spirit of the original agreement without being tied to a future expenditure of an unknown amount at a future date that may or may not be realized.

I trust that this notification is sufficient for you to begin the amendment process. Please do not hesitate to contact me should you require anything further to facilitate the process.

Thank you for your prompt attention to this matter.

Sincerely,



Andrew Marquess
Gem Equities Inc.

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