Minute No. 250
Report – Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – February 27, 2017

Item No 3 Servicing Agreement – Land Drainage Sewer Works – 1261 Lee Boulevard

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and adopted the following:

1. That the City enter into an Agreement for Servicing (and such other agreements as are determined necessary by the Director of Legal Services and City Solicitor to implement the intent of the Agreement for Servicing), pursuant to Section 211 of the City of Winnipeg Charter, with Luxul Home Inc. on the terms set out in the attached Letter of Understanding and to fulfill all the requirements outlined in the Letter of Understanding.

2. That the Chief Administrative Officer be authorized to finalize and approve the terms of the Agreement for Servicing and such other agreements as are determined necessary for this matter by the Director of Legal Services and City Solicitor.

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 Water and Waste, Riverbank Management and the Environment – February 27, 2017

DECISION MAKING HISTORY:

Moved by Councillor Mayes,

That the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 8, 2017, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On February 27, 2017, the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council:

ADMINISTRATIVE REPORT

Title: **PROPOSED AGREEMENT FOR SERVICING – LAND DRAINAGE SEWER WORKS – 1261 LEE BOULEVARD**

Critical Path: **STANDING POLICY COMMITTEE ON WATER AND WASTE, RIVERBANK MANAGEMENT AND THE ENVIRONMENT – EXECUTIVE POLICY COMMITTEE – COUNCIL**

AUTHORIZATION

Author	Department Head	CFO	CAO
G. K. Patton, P. Eng. Manager of Engineering Services	M. L. Geer, CPA, CA Acting Director, Water and Waste Department	n/a	D. McNeil

EXECUTIVE SUMMARY

The landowner, Luxul Home Inc., wishes to develop a multi-family residential development at 1261 Lee Boulevard. Developing the land in this manner requires the construction and installation of a new land drainage sewer and associated works in Lee Boulevard.

An agreement for servicing with the landowner is required to allow the landowner to proceed with providing the land drainage services for the property.

RECOMMENDATIONS

1. That the City enter into an Agreement for Servicing (and such other agreements as are determined necessary by the Director of Legal Services and City Solicitor to implement the intent of the Agreement for Servicing), pursuant to Section 211 of the City of Winnipeg Charter, with Luxul Home Inc. on the terms set out in the attached Letter of Understanding and to fulfill all the requirements outlined in the Letter of Understanding.

2. That the Chief Administrative Officer be authorized to finalize and approve the terms of the Agreement for Servicing and such other agreements as are determined necessary for this matter by the Director of Legal Services and City Solicitor.

3. 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

The proposed Agreement for Servicing requires City Council approval.

IMPLICATIONS OF THE RECOMMENDATIONS

Concurrence with these recommendations will enable servicing conditions to be applied to the development of the property located at 1261 Lee Boulevard.

HISTORY/DISCUSSION

In November 2015, the Water and Waste Department received plans associated with a Luxul Home Inc. development permit application for the property located at 1261 Lee Boulevard shown outlined on the Misc. Plan No. 14791/1 (See Schedule A). During the plan review process it was determined by the Water and Waste Department and Luxul Home Inc. that a land drainage sewer ("LDS") and associated works in Lee Boulevard were required to be constructed to adequately support the development proposal.

No development application applies to Luxul Home Inc.'s development proposal. The subject property land was zoned "RMF-S" Residential Multi-Family District and the development proposal was considered in compliance with the Winnipeg Zoning By-law 200/2006. Therefore, the appropriate mechanism for construction of the LDS is for the City and Luxul Home Inc. to enter into an agreement under Section 211 of the City of Winnipeg Charter for Luxul Home Inc. to construct the LDS. Section 211 permits the City to enter into agreements with any person to provide services in the City.

In November 2016, the City and Luxul Home Inc. signed a Letter of Understanding (LOU) (see Appendix "A"). The purpose of this LOU was to outline the common understanding of the City and Luxul Home Inc. regarding the Luxul Home Inc.'s obligation to construct the LDS to provide adequate land drainage service for the property.

Luxul Home Inc. will be responsible for all costs associated with the construction of the LDS, including the cost of engineering services. After completion of a warranty period, the City will be responsible for the LDS for the remainder of its service life.

Before Luxul Home Inc. (or Luxul Home Inc.'s contractor) can commence with the construction and installation of the land drainage sewer in order to develop the property located at 1261 Lee Boulevard, Council approval of the proposed Agreement for Servicing, and signature of the Agreement by the City and Luxul Home Inc., are necessary.

FINANCIAL IMPACT

Financial Impact Statement **Date:** January 18, 2017

Project Name:

PROPOSED AGREEMENT FOR SERVICING – LAND DRAINAGE SEWER WORKS – 1261 LEE BOULEVARD

COMMENTS:

There are no direct financial implications to the City resulting from the recommendations contained within this report.

"Original signed by L. Szkwarek, CPA, CGA"

js
30-Nov-16

Lucy Szkwarek, CPA, CGA
Acting Manager of Finance and Administration

CONSULTATION

This Report has been prepared in consultation with:

- Planning, Property and Development Department
- Legal Services Department

OURWINNIPEG POLICY ALIGNMENT

This report is in accordance with the OurWinnipeg policies through

OurWinnipeg Reference:

01-1a OurWinnipeg's Approach to City Building

Direction 3: Promote Compact Urban Form and Manage the Extension of Municipal Services for New Growth

SUBMITTED BY

Department: Water and Waste
Division: Engineering Services
Prepared by: M. Gajda, P. Eng., Services Development Engineer
Date: January 27, 2017
File No.: 020-06-02-07-00

CC: G. Jasper, P. Eng., Planning, Property and Development Department, Land Development Branch
J. Carter, Solicitor, Legal Services Department

Attachments:
Schedule A – Misc Plan No. 1479/1
Appendix A – Letter of Understanding

Appendix A

Water and Waste Department • Service des eaux et des déchets

November 17, 2016

LETTER OF UNDERSTANDING

LUXUL HOME INC.
14 Brian Cliff Drive
Toronto, Ontario
M3B 2G2

Dear Sirs:

RE: New Land Drainage Sewer and Associated Works
1261 Lee Boulevard, Winnipeg, Manitoba

The purpose of this letter is to outline and document the mutual understanding of certain matters by Luxul Home Inc. ("Luxul", a corporation duly registered to carry on business in Manitoba) and The City of Winnipeg ("City").

Luxul is the registered owner of the following land in the City of Winnipeg, in Manitoba:

Parcel "E" Plan 5238 WLTO
In RL 1 and 2 Parish of St Vital

(land title number 2783187/1)

and

SP Lot 1 Plan 21995 WLTO
In RL 124 Parish of St Norbert and
In RL 1 & 2 Parish of St Vital

(land title number 2783189/1)

which land has a street address of 1261 Lee Boulevard and is shown on Miscellaneous Plan No. 14791/1 (attached to this letter as **Schedule "A"**)

("Land").

Luxul wishes to develop the Land by constructing one or more multi-family dwellings on it. Luxul and the City have determined that developing the Land in this manner would require the construction and installation of a new land drainage sewer and associated works in Lee Boulevard ("LDS").

Luxul and the City agree with each other as follows:

1. Luxul will, at its sole expense and at no cost to the City, retain the services of a qualified municipal engineer as the project manager to coordinate the construction and installation of the LDS and all associated works in Lee Boulevard ("Project Manager").

2. The latest version of the following City documents:

   - Standard Construction Specifications; and
   - Water and Sewer Standards Manual

   will apply to all materials supplied and all construction procedures related to Luxul's construction and installation of the LDS.

   Forthwith and prior to performing any of its obligations outlined herein, Luxul must obtain from the City the latest revision of the above City documents.

3. The City will permit Luxul to, at Luxul's sole expense and at no cost to the City, construct and install the LDS, subject to Luxul entering into an Agreement for Servicing with the City. The Agreement for Servicing:

   - Is subject to approval by Council for the City;
   - Will be governed by the laws of the Province of Manitoba and Canada;
   - Will contain the above conditions 1 and 2 and the following conditions:

   (a) Luxul will be responsible for any and all costs associated with the construction and installation of the LDS, including without limitation the cost of all engineering services.

   (b) Prior to Luxul constructing and installing the LDS, Luxul will submit construction drawings to the City for the City's review and consideration for approval in accordance with the City's Underground Structures Approval process.

   (c) Prior to Luxul constructing and installing the LDS, Luxul will, in accordance with the City's current practices for servicing agreements, provide the City with letters of credit, in dollar amounts determined by the City and in a form satisfactory to the City, as security to guarantee the performance of Luxor's obligations:

      - In the Agreement for Servicing; and

- Under The Builders' Liens Act (Manitoba).

(d) The Project Manager will inspect the LDS on behalf of the City during construction and installation of the LDS.

(e) The Project Manager will, in a timely manner after the date of substantial completion which in any case must not exceed three months after that date, provide the City with as-built drawings of the LDS.

Approved:

"Original Signed by G. Jasper, P. Eng."

for the City's Director of Planning, Property and Development

Approved:

"*Original Signed by M. Gajda, P. Eng."*

for the City's Director of Water and Waste

Reviewed and Certified as to Form:

"*Original Signed by J. Carter, Solicitor"*

for the City's Director of Legal Services and City Solicitor

Understood and Agreed by:

LUXUL HOME INC.

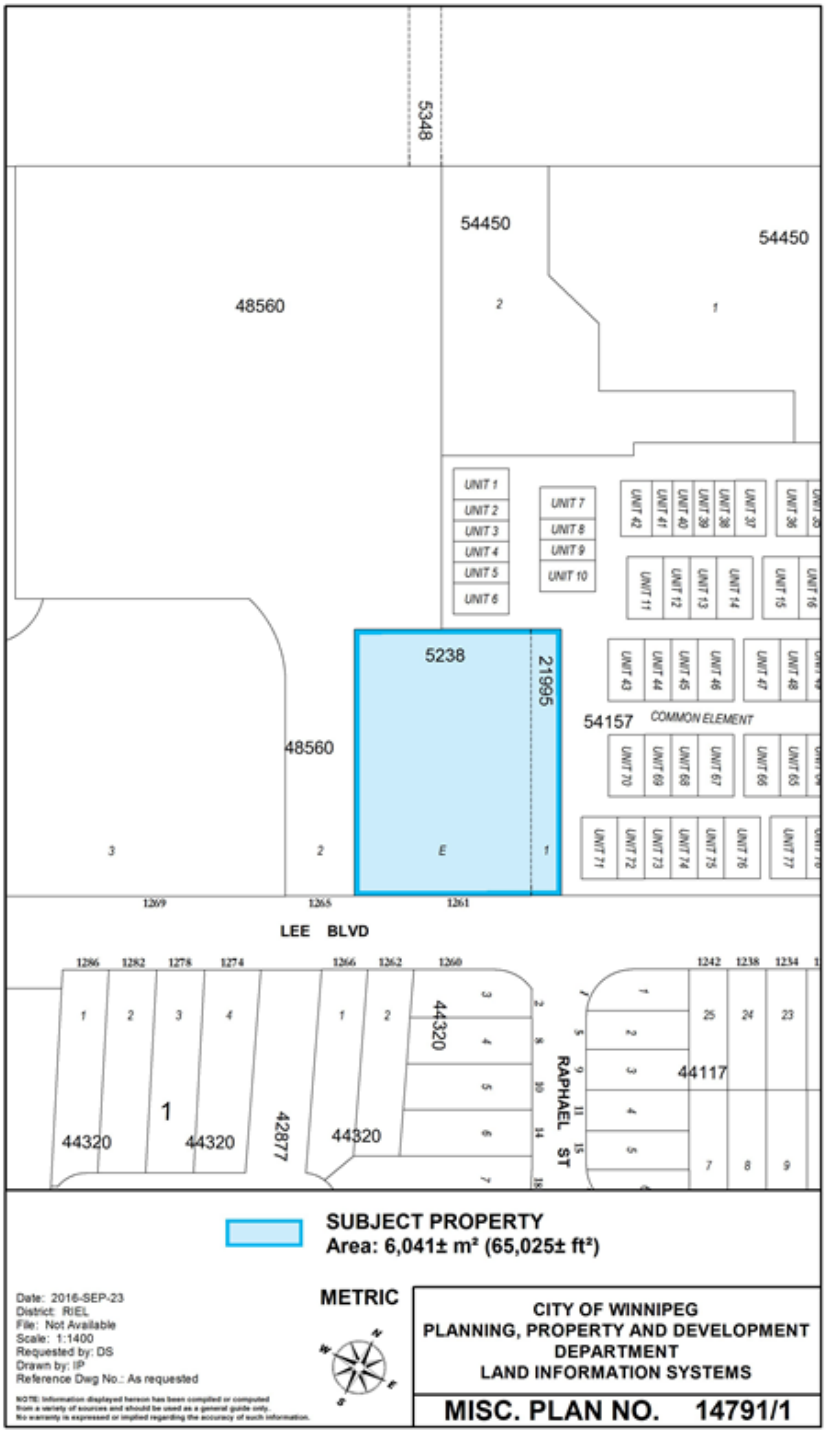
Witness *(signature)*: "*Original Signed by Y. Li"* Per *(signature)*: "*Original Signed by Y. Zhang"*

Name *(print)*: Ye Li Name *(print)*: Yugi Zhang

Address (print): 14 Brian Cliff Drive Title *(print)*: President

Toronto, ON, M3B 2G2

Schedule "A"


5348
54450
54450
48560
2
1
UNIT 1
UNIT 2
UNIT 3
UNIT 4
UNIT 5
UNIT 6
UNIT 7
UNIT 8
UNIT 9
UNIT 10
UNIT 42
UNIT 41
UNIT 40
UNIT 39
UNIT 38
UNIT 37
UNIT 36
UNIT 11
UNIT 12
UNIT 13
UNIT 14
UNIT 15
UNIT 16
5238
21995
UNIT 43
UNIT 44
UNIT 45
UNIT 46
UNIT 47
UNIT 48
54157
COMMON ELEMENT
48560
UNIT 70
UNIT 69
UNIT 68
UNIT 67
UNIT 66
UNIT 65
3
2
E
1
UNIT 71
UNIT 72
UNIT 73
UNIT 74
UNIT 75
UNIT 76
UNIT 77
1269
1265
1261
LEE BLVD
1286
1282
1278
1274
1266
1262
1260
1242
1238
1234
44320
RAPHAEL ST
44117
1
44320
44320
42877
44320
SUBJECT PROPERTY
Area: 6,041± m² (65,025± ft²)
METRIC
Date: 2016-SEP-23
District: RIEL
File: Not Available
Scale: 1:1400
Requested by: DS
Drawn by: IP
Reference Dwg No.: As requested
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT
DEPARTMENT
LAND INFORMATION SYSTEMS
MISC. PLAN NO. 14791/1