Minute No. 433
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 6, 2017

Item No. 6 Development Agreement Amendment – File DASZ 18/2014 (AG 18/14) (Transcona Ward)

COUNCIL DECISION:

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

1. That Council's recommendation under file DASZ 18/2014 regarding the reimbursement conditions for the installation of the wastewater interceptor sewer be replaced with the following:

   A. The City shall reimburse the Developer the costs to construct and install the interceptor wastewater sewer extension, if constructed by the Developer, in accordance with the Development Agreement parameters within two(2) years of the date of the substantial completion of the works as outlined in 1 (b) above. Interest shall be added to that cost from the first anniversary date of substantial completion of the said works as certified by the Developer's Engineers.

2. That the City and Developer shall enter into an agreement outlining specific terms and conditions respecting the installation of the interceptor sewer by the Developer including, but not limited to, the following:

   A. Developer pays the incremental cost of construction (e.g. hiring a design engineer).

   B. City approves the design engineer to be hired by the developer.

   C. Design engineer would prepare bid specifications for City public tender of construction contract and administer the same.

3. That the Developer's requests to amend Council's recommendation under file DASZ 18/2014 regarding the reimbursement conditions for the installation of Regional Stormwater Facilities be denied.

4. That the proper officer of the City be authorized to do all things necessary to implement the intent of the foregoing.

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DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 14, 2017, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 6, 2017, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council with the following amendments:

- Add the following new recommendation 2.

    2. That the City and Developer shall enter into an agreement outlining specific terms and conditions respecting the installation of the interceptor sewer by the Developer including, but not limited to, the following:

        A. Developer pays the incremental cost of construction (e.g. hiring a design engineer).

        B. City approves the design engineer to be hired by the developer.

        C. Design engineer would prepare bid specifications for City public tender of construction contract and administer the same.

- Renumber the remaining recommendations accordingly.

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DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION:

On May 25, 2017, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- Delete Recommendation 1 in its entirety and replace it with the following:

    1. That Council's recommendation under file DASZ 18/2014 regarding the reimbursement conditions for the installation of the wastewater interceptor sewer be replaced with the following:

        A. The City shall reimburse the Developer the costs to construct and install the interceptor wastewater sewer extension, if constructed by the Developer, in accordance with the Development Agreement parameters within two(2) years of the date of the substantial completion of the works as outlined in 1 (b) above. Interest shall be added to that cost from the first anniversary date of substantial completion of the said works as certified by the Developer's Engineers.

and forwarded the matter to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

ADMINISTRATIVE REPORT

Title: **REQUEST TO AMEND DEVELOPMENT AGREEMENT CONDITIONS FOR FILE DASZ 18/2014 (AG 18/ 14)**

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

AUTHORIZATION

Author	Department Head	CFO	CAO/COO
M. Pittet	J. Kiernan	N/A	N/A

RECOMMENDATION

1) That the Developer's requests to amend Council's recommendation under file DASZ 18/2014 regarding the reimbursement conditions for the installation of the wastewater interceptor sewer be denied.

2) That the Developer's requests to amend Council's recommendation under file DASZ 18/2014 regarding the reimbursement conditions for the installation of Regional Stormwater Facilities be denied.

3) That the proper officer 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 Council's instructions.

EXECUTIVE SUMMARY

The Developer is requesting that Developer payback clauses for certain works be amended. These requests are not in accordance with the Development Agreement Parameters with respect to Developer reimbursements and paybacks.

Therefore, the Winnipeg Public Service is opposed the recommended amendments.

IMPLICATIONS OF THE RECOMMENDATIONS

HISTORY/DISCUSSION

On March 25, 2015 Council approved the subdivision and rezoning application for DASZ 18/2014 pertaining to land located at Gunn Road and Redonda Street, commonly known as the Northwood Neighborhood.

As a condition of approval certain terms and conditions with respect to Developer reimbursement were imposed. The applicant has requested that financing terms be amended for two items as follows:

1. Reimbursement terms for the installation of the Plessis Wastewater Sewer Interceptor.

In order to service the proposed subdivision, the Plessis Wastewater Sewer Interceptor will be extended by the Water and Waste Department. The Development Agreement provides the Developer, subject to approval by the Director of Water and Waste, the opportunity to install the interceptor in advance of the City performing the work with the following reimbursement clause:

The City shall reimburse the Developer the costs to construct and install the interceptor wastewater sewer extension, if constructed by the Developer, in accordance with the Development Agreement Parameters when Capital Funding is approved by council.

The Developer has requested this clause to be amended to read as follow:

The City shall reimburse the Developer the Costs to construct and install the interceptor wastewater sewer extension, if constructed by the Developer, in accordance with Development Agreement parameters **within two (2) years of the date of substantial completion of the works as outline above. Interest shall be added to that cost (compounded annually) from the date of substantial completion of the said works as certified by the Developer's Engineer.**

The Water and Waste Department have indicated that they would not be prepared to transfer the obligations to design and construct the Plessis Interceptor Sewer project to a third party. It is therefore recommended that the Developer's request to amend this clause be denied as it will be not applicable.

2. Amend reimbursement Terms for Installation of the Regional Land Drainage Facilities.

Under the terms of the Development Agreement, the Developer is responsible to install certain works classified as Regional Stormwater Management Facilities. This would include the stormwater retention basins as well as the interconnecting land drainage sewers. The costs of these facilities are to be shared equitable among the benefiting land owners. If the Developer's cost of constructing the regional Stormwater Management Facilities is greater than the Developer's share of the cost, the City will reimburse the Developer the difference. In accordance with the Development Agreement parameters, interest will be added to that amount

calculated from the first anniversary of substantial completion of construction of the Regional Stormwater Management Facilities.

The Developer has requested to amend this clause as follows:

a) That the City shall reimburse the Developer within 1 year of substantial completion and
b) that the interest would start from the date of completion instead of one year after completion.

As this is contrary to the Development Agreement Parameters within respect to Developer reimbursements, it is recommended that the Developer's request to amend this clause be denied.

FINANCIAL IMPACT

N/A

CONSULTATION

Water and Waste

SUBMITTED BY

Department: Planning, Property and Development
Division: Land Development, Geomatics and Land Information Systems
Prepared by: G.V. Jasper, P. Eng, Land Development Branch
Date: May 12, 2017

File No. AG / DASZ 18/2014

Appendix "A" – Letter requesting amendment to DASZ 18/2014.

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Filename: V:\DA Amendment Requests\AG 18-14 amendment request Northwood.doc

APPENDIX "A" – LETTER OF REQUEST TO AMEND DASZ 18/2014

Canadian Home Builders Association Manitoba Home Builders

NORTH GRASSIE PROPERTIES INC.,
Box 25094, Mission Park P.O.
Kelowna, B.C., V1W 3Y7

Call 1-250-764-4499
Fax 1-250-764-0688
Email: NGPinc@shaw.ca

February 24th, 2017

City of Winnipeg
Property, Planning and Development Department
65 Garry Street
Winnipeg, Manitoba

Attention: Greg Jasper and Rob Deighton

Re: NorthWoods – DASZ 18/14 and AG 18/14

Dear Sirs:

Please consider our request to process the following amendments to the above referred to development agreement:

Schedule "C" Special Terms Section I

As the cost to install the interceptor wastewater sewer has been approved by Council in it's most recent Capitol Budget, we would request the following amendment to Clause 1 (c):

.....The City shall reimburse the Developer the costs to construct and install the interceptor wastewater sewer extension, if constructed by the Developer, in accordance with the Development Agreement parameters within two(2) years of the date of the substantial completion of the works as outlined in 1 (b) above. Interest shall be added to that cost (compounded annually) from the date of substantial completion of the said works as certified by the Developer's Engineers

In addition we would request the following amendment to Clause 5 (b) (ii):

After the words " the City shall reimburse the Developer"....add the words..." within one (1) year"

Change the words....."from the first anniversary" to the words " from the date"

Please be advised that I have used the draft agreement dated July 17, 2013 as my model.

Yours truly;

NORTH GRASSIE PROPERTIES INC.,

Per:

John E. Wiebe, President

Cc: Norm Boyle
Jackie Wilkie, McGowan Russell
Councillor Wyatt