Minute No. 222
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – February 2, 2018

Item No. 9 **Request to Amend Servicing Agreement Condition for File DASZ 29/2016 (AG 29/2016) (South Winnipeg - St. Norbert 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 the Developer's request to amend Servicing Agreement (AG 29/2016) by deleting the Administrative Coordinating Group (ACG) condition 4 titled Pembina Highway Services, be denied.

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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 by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 13, 2018, 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.

Further on February 13, 2018, the Executive Policy Committee received a submission from Collin Neufeld and Alex Boersma, in opposition to the recommendation.

STANDING COMMITTEE RECOMMENDATION:

On February 2, 2018, the Standing Policy Committee on Property and Development, Heritage and Downtown Development did not concur in the recommendation of the Riel Community Committee, concurred in the recommendation of the Winnipeg Public Service, and submitted the matter to the Executive Policy Committee and Council.

Further on February 2, 2018, Jordy Craddock submitted a presentation at the meeting in support of the matter.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 15, 2018, the Riel Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development:

1. That the Developer's request to amend Servicing Agreement (AG 29/2016) by deleting the Administrative Coordinating Group (ACG) condition 4 titled Pembina Highway Services be approved.

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 – February 2, 2018

DECISION MAKING HISTORY:

COMMUNITY COMMITTEE RECOMMENDATION:

Further on January 15, 2018, the Riel Community Committee received a submission from Collin Neufeld, undated, in support of the matter.

ADMINISTRATIVE REPORT

Title: **REQUEST TO AMEND SERVICING AGREEMENT CONDITION FOR FILE DASZ 29/2016 (AG 29/2016)**

Critical Path: Riel 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	N/A	N/A

EXECUTIVE SUMMARY

The Developer is requesting to amend Servicing Agreement (AG 29/2016) by deleting the Administrative Coordinating Group (ACG) condition to pay for services abutting their site along Pembina Highway. The Winnipeg Public Service is opposed to the recommended amendment.

RECOMMENDATIONS

1. That the Developer's request to amend Servicing Agreement (AG 29/2016) by deleting the Administrative Coordinating Group (ACG) condition 4 titled Pembina Highway Services be denied.

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 Council's instructions.

HISTORY/DISCUSSION

On September 28, 2016, Council approved the subdivision and rezoning of land located at 989-1001 Ducharme Avenue to allow for the construction of a multi-story mixed use commercial/residential building.

One condition of approval was that the applicant pay to the City their share of the cost of the following services installed in Pembina Highway along the full length of the planned area:

a) 4.0m wide by 200mm thick Portland cement concrete lane of pavement and related works;
b) 1.5m Portland cement concrete sidewalk;
c) street lighting in the west boulevard;
d) sodding in the west boulevard; and
e) trees in the west boulevard

All as determined by and to the satisfaction of the Director of Public Works.

Based on the 2017 regional street rate, the costs of the above noted services were determined to be as follows:

a)	4.0m wide cement concrete	(115.1 ft. X 345.00/ft.) =		$39,709.50
b)	1.5m wide concrete sidewalk	(115.1 ft. X 50.00/ft.) =		5,755.00
c)	street lighting	(115.1 ft. X 40.00/ft.) =		4,604.00
d)	landscaping	(115.1 ft. X 20.00/ft.) =		2,302.00
	GST @ 5%		=	2,618.53
		Total		$54,989.03

A letter was received by Jordy Craddock of 5468796 ARCHITECTURE INC. (the applicant) on behalf of Legatum Development Inc. (attached as Appendix “A”) with a request to delete the above noted servicing payment requirement.

Developer servicing requirements are established from the Development Agreement Parameters adopted by council July 17, 2002. The parameters are guidelines used in formulating development conditions for consideration by City Council and its relevant Committees. Section 31 clause d) of the development parameters states the following:

“Street Pavements” clause d)

“Excepting where area charges are in effect, where a development borders on an arterial road, the Developer shall pay the cost of one lane of concrete pavement 4 meters in width together with a share of land drainage, sidewalks, landscaping, street lighting, and intersection improvements and modifications as determined by the City which requirements and geometrics thereof shall be defined at the time the development agreement is executed.”

This clause is invoked when land is rezoned from agricultural or rural residential to a more intensive use. An exception would be if it is determined that payment was already made under a previous application. In this case, the City has no record or indication that any prior payments were made under former applications. Therefore, it is recommended that the servicing fee not be waived and that the amendment be denied.

FINANCIAL IMPACT

N/A

CONSULTATION

Public Works

OURWINNIPEG POLICY ALIGNMENT

This development proposal is consistent with the policies guiding development along Regional Mixed Use Corridors in the Complete Communities Direction Strategy and is consistent with the St. Norbert Planned Development Overlay.

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Real Estate and Land Development
Prepared by:	G. Jasper, Land Development Administrator
Date:	January 8, 2017
File No:	V:\DA Amendment Request\AG 29-16 Request to Amend DASZ 29-16
Attachment:	Appendix “A” – Letter requesting amendment to DASZ 29/2016

APPENDIX "A" – LETTER REQUESTING AMENDMENT TO AG 29/2016

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Greg Jasper
Land Development Department, City of Winnipeg

06.12.2017

re: **989 - 1001 Ducharme Avenue -**
Application to Amend Servicing Agreement - Letter of Intent

Dear Greg,

On behalf of our clients, Alex Boersma and Ryan Ridge of Legatum Development Inc., please accept this letter as application to amend Servicing Agreement AG 29/16 between The City of Winnipeg and Legatum Development Inc. for the above noted property and pending development.

The subject development, which will be known as Terrasse Boisjoli, is on a large lot at the corner of Pembina Highway and Ducharme Avenue with the Boisjoli coulee on the North side of the property and a principal branch line to the west of the property. The apartment building will have 2 levels of parking, one of which will be underground, accessed from Ducharme Avenue. The proposed multi-family apartment building will consist of a 6 storey, 40 unit building with 56 parking stalls as well as a commercial space on the main floor.

The above noted properties have been amalgamated and rezoned from RR5 to RMU in order to facilitate the construction of this development as per DASZ 29/2016. At the time of approval, it was recommended within Schedule B of the administrative report that the applicant enter into a Servicing Agreement to address a number of items including item 4, Pembina Highway Services, which stated:

> *"The Developer shall, pay to the City, in cash on demand, its share of the cost of the following services installed in Pembina Highway along the full length of the Planned Area, abutting the west side of Pembina Highway: a) 4.0m wide by 200mm thick Portland cement concrete lane of pavement and related works; b) 1.5m Portland cement concrete sidewalk; c) street lighting in the west boulevard; d) boulevard sodding in the west boulevard; e) boulevard trees in the west boulevard, all as determined by and to the satisfaction of the Director of Public Works"*

At the time of DASZ 29/2016's approval, a cost had not yet been applied by the City of Winnipeg for the above noted services. The associated work and costs were also never discussed or brought to the developers or architects attention by The City of Winnipeg in pre-application or in the numerous discussions with PP+D personnel.

Our client received a Draft Servicing Agreement from the City of Winnipeg in August, 2017. Item 4, Pembina Highway Services, of Schedule C, Section 1 - Servicing of this document stated:

> *"The Developer shall, pay to the City, prior to release of subdivision mylars, its share of the cost of the following services installed in Pembina Highway along the full length of the Planned Area, abutting the west side of Pembina Highway: i) 4.0m wide by 200mm thick Portland cement concrete lane of pavement and related works = $39,709.50; ii)*

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1.5m Portland cement concrete sidewalk = $5,755.00; iii) street lighting in the west boulevard = $4,604.00; iv) boulevard sodding in the west boulevard = $2,302.00; v) G.S.T. (5%) = $2,618.53. ***Total = $54,989.03.***"

The total cost of this item came as a shock to our clients and a strain on the development that is already burdened by the principal branch line abutting the property and drainage requirements due to the adjacent coulee.

Research undertaken by us as well as City of Winnipeg staff, with support from Councillor Janice Lukes, has indicated that properties abutting Regional Streets, in this case Pembina Highway, are required in the bylaw to provide a one time payment for their share of the Regional Street [i.e. one lane of pavement, sidewalk, lighting, sod]. This charge is supposed to be applied when a property is zoned from RR5 or A to a higher density. However, it has been brought to our attention that surrounding properties along Pembina Highway have not been subject to such charges despite also having been rezoned from RR5 or A to a higher density.

As such, on behalf of Legatum Development Inc., we wish to request an amendment to Servicing Agreement AG 29/16, removing item 4) Pembina Highway Services of Schedule C: Special Terms, Section 1 - Servicing. This request is based on consistency with adjacent properties and their previous applications and recognizing the difficulty and extra costs already incurred and anticipated by the developer for this project.

Any questions or concerns can be directed to Jordy Craddock at 204-480-8421.

Thank you,

Jordy Craddock
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