Minute No. 143
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – January 7, 2019

Item No. 23 Development Agreement Amendment – DASZ 52/2013 (AG 52/2013) (Transcona Ward)
File DASZ 52/2013

COUNCIL DECISION:

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

1. That the Development Agreement under File DASZ 52/2013 (AG 52/13) be amended by deleting Clause 7 in Section I of Schedule "C", namely:

   Fermor Avenue Front Ending Agreement

   A. The Developer shall finance and reconstruct, Fermor Avenue as a four-lane divided roadway between Lagimodiere Boulevard and the Canadian National overpass, as determined by and to the satisfaction of the Director of Public Works.

   B. The City's share of the cost of this work shall be as determined in a Front-Ending Agreement supplementary to the Development Agreement.

   C. The City shall reimburse the Developer for its share of the cost such that there is no net cost to the Developer for this additional work, all as determined by the Director of Public Works in accordance with the terms and conditions of the Front-Ending Agreement.

   D. The Chief Administrative Officer and Chief Financial Officer shall be delegated the authority to negotiate the terms and conditions of the Front-Ending agreement and report back to council.

2. That the Developer be reimbursed for preliminary design and costs related to the preparation of the front ending agreement, the amount to be approved and accepted by the Director of Public Works.

3. That the City enter into, execute and deliver an agreement to amend the Development Agreement in accordance with recommendation 1 (the "Amending Agreement") with the Developer of the land and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

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STANDING COMMITTEE RECOMMENDATION (continued):

4. That authority be delegated to the City's Director of Planning, Property and Development to negotiated and approve the terms and conditions of the Amending Agreement, and any Ancillary Agreements, in accordance with this report, and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

5. That construction of the project be held subject to Council approval of the 2019 Budget.

6. That the proper officers 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 Mayes,

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 January 22, 2019, 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 January 7, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the East Kildonan-Transcona Community Committee, with the following amendments:

- Add the following new Recommendation 5.:

  "5. That construction of the project be held subject to Council approval of the 2019 Budget."

- Renumber the remaining recommendations accordingly.

and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 13, 2018, 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, Heritage and Downtown Development.

ADMINISTRATIVE REPORT

Title: Development Agreement Amendment – DASZ 52/2013 (AG 52/2013)

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
M. Pittet	J. Kiernan	N/A	N/A

EXECUTIVE SUMMARY

The Developer has submitted a request to amend Development Agreement AG 52/2013 by deleting Clause 7 in Section I of Schedule “C” that requires the Developer to finance and reconstruct Fermor Avenue in accordance with terms and conditions outlined in a Front Ending Agreement with the Developer and the City of Winnipeg.

The Public Service concurs with the Developers request to delete the clause in question.

RECOMMENDATIONS

1. That the Development Agreement under File DASZ 52/2013 (AG 52/13) be amended by deleting Clause 7 in Section I of Schedule “C” , namely:

   Fermor Avenue Front Ending Agreement

   a) The Developer shall finance and reconstruct, Fermor Avenue as a four-lane divided roadway between Lagimodiere Boulevard and the Canadian National overpass, as determined by and to the satisfaction of the Director of Public Works.

   b) The City’s share of the cost of this work shall be as determined in a Front-Ending Agreement supplementary to the Development Agreement.

c) The City shall reimburse the Developer for its share of the cost such that there is no net cost to the Developer for this additional work, all as determined by the Director of Public Works in accordance with the terms and conditions of the Front-Ending Agreement.

d) The Chief Administrative Officer and Chief Financial Officer shall be delegated the authority to negotiate the terms and conditions of the Front-Ending agreement and report back to council.

2. That the Developer be reimbursed for preliminary design and costs related to the preparation of the front ending agreement, the amount to be approved and accepted by the Director of Public Works.

3. That the City enter into, execute and deliver an agreement to amend the Development Agreement in accordance with recommendation 1 (the "Amending Agreement") with the Developer of the land and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

4. That authority be delegated to the City's Director of Planning, Property and Development to negotiated and approve the terms and conditions of the Amending Agreement, and any Ancillary Agreements, in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

5. 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 approval is required to amend a Development Agreement.

IMPLICATIONS OF THE RECOMMENDATIONS

The deletion of the requirement to enter into a Front Ending Agreement will allow the Developer to continue with orderly development of the subdivision under File DASZ 52/2013.

HISTORY/DISCUSSION

On July 16th, 2014, Council approved a subdivision and rezoning application made by MMM Group on behalf of 5086109 Manitoba Ltd., 5154635 Manitoba Ltd. and 5444480 Manitoba Ltd., collectively known as the Developer. The application will allow for commercial, mixed use commercial and residential multi-family development south of Fermor Avenue, including 1501 & 1525 Dawson Road South.

One of the conditions of the approval under DASZ 52/2013 requires the Developer to bridge finance and reconstruct portions of Fermor Avenue generally fronting along the Development application area. At the time of approval (July 2014), Fermor Avenue improvements were identified as a medium term priority not scheduled or budgeted until post 2017 and advancing this work would have allowed the Developer to properly install his obligations along Fermor Avenue. This would have included Traffic Signalization at the intersection to the proposed development, storage and turning lanes and site enhancements.

Currently, the Developer is still pursuing final approvals and plans for the development and construction has not yet started. Council has approved funding for the reconstruction of Fermor Avenue under the control of the Public Works Department with project commencement scheduled for 2019. Therefore, there is no longer the need for a front ending agreement.

FINANCIAL IMPACT

N/A

CONSULTATION

Public Works

OURWINNIPEG POLICY ALIGNMENT

The subject plan was approved by council is consistent with the policies of the precinct plan for Precinct J and OurWinnipeg, the complete communities direction strategy.

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Real Estate and Land Development
Prepared by:	G.V. Jasper, Land Development Administrator
Date:	November 6, 2018