**Agenda – Council – July 18, 2019**

**Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 5, 2019**

**Item No. 2 Extension of Time – Proposed Subdivision and Rezoning – 3600 and 3636 Portage Avenue (Charleswood-Tuxedo-Westwood Ward) File DASZ 8/2015**

STANDING COMMITTEE RECOMMENDATION:

On July 9, 2019, the Executive Policy Committee concurred in the recommendation of Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That the time limit to satisfy the Coming into Force provisions of By-law No. 40/2017 be extended to January 2, 2020.

2. That the applicant conduct a public open house regarding the Subdivision and Rezoning at 3600 and 3636 Portage Avenue.

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 Property and Development, Heritage and Downtown Development – July 5, 2019

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 9, 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 July 5, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Assiniboia Community Committee be concurred in and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 2, 2019, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendments:

- Replace the words “May 24, 2020” with “January 2, 2020”

- Add the following new Recommendation 2 and renumber the remaining accordingly:

    “2. That the applicant conduct a public open house regarding the Subdivision and Rezoning at 3600 and 3636 Portage Avenue.”

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

On June 4, 2019, the Assiniboia Community Committee laid the matter over to its meeting on July 2, 2019.

# ADMINISTRATIVE REPORT

**Title:** Extension of Time – Proposed Subdivision and Rezoning – 3600 and 3636 Portage Avenue – File No. DASZ 8/2015

**Critical Path:** Assiniboia 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 time limit for the Coming into Force provisions of By-law No. 40/2017 under File No. DASZ 8/2015 expire on May 24, 2019. The developer has not been able to satisfy all of the conditions prior to expiry and has requested a second extension of time to complete the necessary registrations at the Winnipeg Land Titles Office.

The Winnipeg Public Service has no objection to this request.

## RECOMMENDATIONS

1. That the time limit to satisfy the Coming into Force provisions of By-law No. 40/2017 be extended to May 24, 2020.

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 approval is required for an extension of time.

## IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendation is concurred in, the Developer will be allowed a time extension to May 24, 2020, to complete the necessary registrations at the Winnipeg Land Titles Office.

## HISTORY/DISCUSSION

On July 15, 2015, Council adopted Item No. 1 of the Report of the Standing Policy Committee on Property and Development , Heritage and Downtown Development dated June 26, 2015 which recommended approval of a subdivision and rezoning to a “C3” Commercial Corridor District under Winnipeg Zoning By-Law 200/2006. See Appendix “A” map attached.

The rezoning By-law No. 40/2017 was passed by Council on May 24, 2017. See Appendix “A” map attached.

Section 3 of By-law No. 40/2017 stipulates:

**Coming into force**

3 (a) Section 1 comes into force when the plan of subdivision is registered in the Winnipeg Land Titles Office.

(b) Section 2 comes into force when the Zoning Agreement DASZ 8/2015 is registered in the Winnipeg Land Titles Office by caveat against the subject land within one year from the date this By-law is passed, failing which this By-law will expire unless an extension of time is applied for prior to expiry, Council approves the extension, and the caveat is registered before the extended date.

On July 19, 2018, Council adopted Item No. 3 of the Report of the Standing Policy Committee on Property and Development, Heritage and Downtown Development dated June 25, 2018 extending the time limit to satisfy the Coming into Force provisions of By-law 40/2017 to May 24, 2019.

By-law No. 40/2017 has not come into force by the required registration of the Plan of Subdivision, the required Zoning Agreement DASZ 8/2015 has not been registered by caveat in the Winnipeg Land Titles Office and the one (1) year time limit expired on May 24, 2019.

On May 14, 2019, the Developer, Public City Architecture Inc. (Attention: Mr. Andrew Lewthwaite, 707 Sara Avenue, Winnipeg, Manitoba, R3G 0Y8), on behalf of the owner Boquist Developments Inc., submitted a request for a second extension of time in order to complete the necessary registrations at the Winnipeg Land Titles Office. See Appendix “B” attached.

The Winnipeg Public Service has reviewed this request for an extension of time and is of the opinion that approval of the subject extension of time would be acceptable as circumstances leading to the original approval remain unchanged.

## FINANCIAL IMPACT

N/A

## CONSULTATION

N/A

## OUR WINNIPEG POLICY ALIGNMENT

The site is located on a Regional Mixed Use Corridor (Portage Avenue) Policy Area under the *Complete Communities Direction Strategy*. Regional Mixed Use Corridors are identified as "significant routes of entry into the city and to downtown" which promote entranceways and gateways at major entry points to the city, downtown and communities by using distinctive urban design features, lighting, enhanced vegetation, landscaping and public art.

## SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: A. Savage, Land Development Services Coordinator
Date: May 15, 2019
File No: DASZ 8/2015

Attachments:
Appendix "A" – DASZ 8/2015, By-law No. 40/2017 Map
Appendix "B" – Letter Requesting Extension of Time

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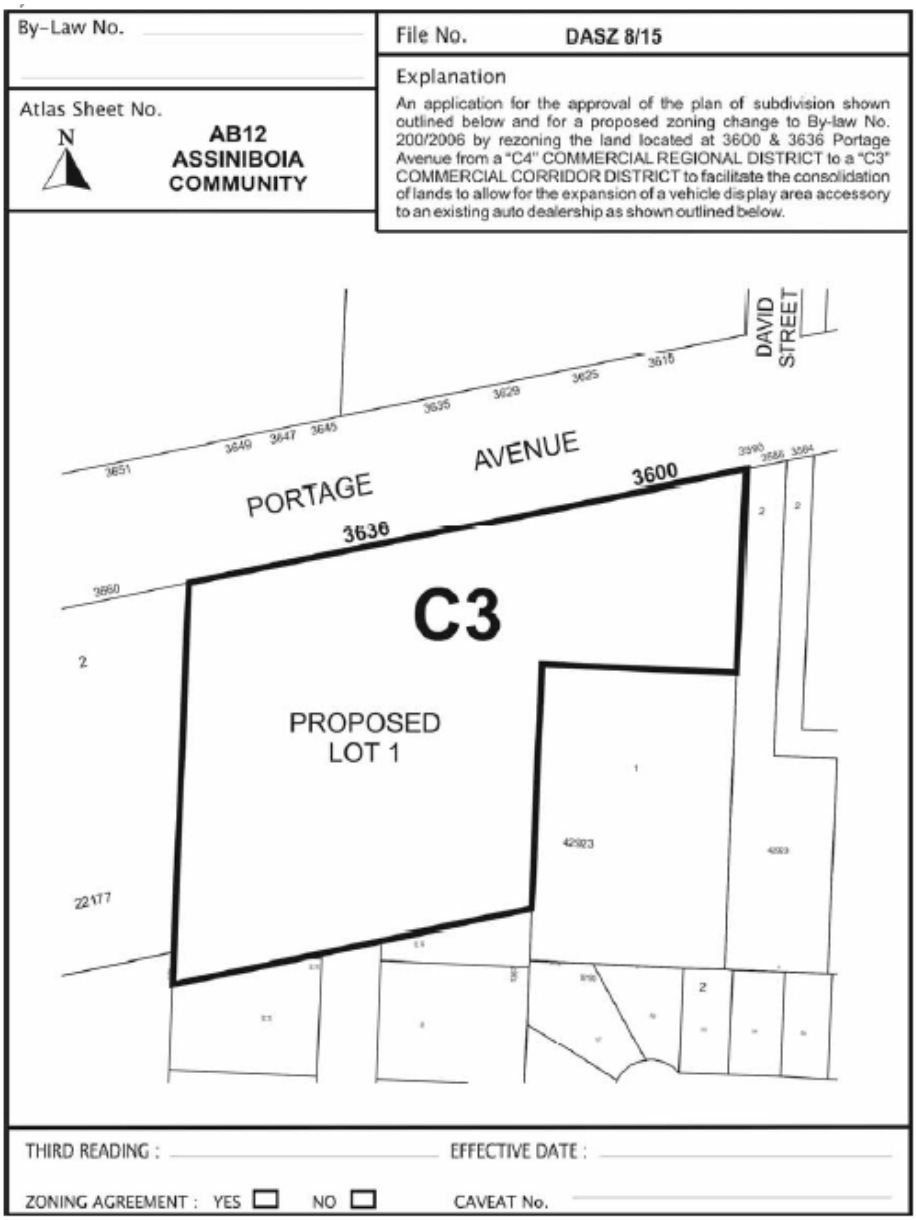
**APPENDIX "A" – DASZ 8/2015, BY-LAW NO. 40/2017 MAP**



## APPENDIX "B" – LETTER REQUESTING EXTENSION OF TIME

City of Winnipeg – Planning, Property & Development Department
Main Floor, 65 Garry Street
Winnipeg, MB
R3C 4K4

**ATTN: Angie Savage – Development Applications Coordinator**
**Michelle Hammerberg – Development Application Coordinator**

May 14th, 2019

Re: **SUBDIVISION AND REZONING ON LAND LOCATED AT 3600 & 3636 PORTAGE AVENUE – Assiniboia Community – File No. DASZ8/2015**
**Second Formal Request for Extension of Time - Registration of Consolidated Lot and Zoning Agreement Caveat with Land Titles**

Dear Ms. Savage & Ms. Hammerberg

Regarding the above noted subject line with reference to the Proposed Subdivision and Rezoning on Land Located at 3600 & 3636 Portage Avenue (File No. DASZ 8/2015), we are writing on behalf of our client the Owner (Boquist Developments Inc.) to request a second extension of 12 months to complete the formal registration of the new plan of subdivision, the consolidated status of title, and new zoning agreement caveat between the Owner and the City of Winnipeg with the Property Registry for the following reasons:

1. The subject properties (3600 and 3600 Portage Avenue) have a total of 12 caveats/encumbrances registered against their titles that have to be discharged or transferred by amendment to the new consolidated title before the subdivision/consolidation can be formally registered with the Manitoba Land Titles Office of The Property Registry. To date, 8 of the 12 caveats/encumbrances have been resolved by our client's legal counsel.

2. Our client's legal counsel is actively working towards resolving the final 4 encumbrances which are as follows:

    a. Caveat No. 2497087/1 – Lease – Ford Motor Company of Canada Ltd.
    b. Caveat No. 2497088/1 – Ford Motor Company of Canada Ltd.
    c. Caveat No. 4190220/1 – Assignment of Leases – The Toronto Dominion Bank
    d. PPSN No. 34190221/1 – The Toronto Dominion Bank

    Our understanding is that The Ford Motor Company caveats must be resolved prior to the Toronto-Dominion Bank caveat and PPSN. Our client's legal counsel has been working, and will continue to work with the solicitors of both the Ford Motor Company, and the Toronto Dominion Bank to amend or discharge the items above as quickly as possible, in order to be able to register the subdivision/consolidation, along with the new zoning agreement between Boquist Developments and the City of Winnipeg as a caveat, which is the final step in the process related to the subdivision and rezoning under DASZ 8/2015.

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**Public City Architecture Inc**
707 Sara Avenue
Winnipeg Manitoba
R3G 0Y8 204 475 9323
publiccityarchitecture.com

3. Our client's legal counsel has indicated that although progress has continued on the encumbrances noted above since the first extension of the deadline was granted, it is unlikely that full discharge and/or amendment enabling formal registration of the subdivision will be possible prior to the May 24th, 2019 expiry date tied to the zoning agreement ratification that was granted through the first request for extension in May 2018. We anticipate an additional 12 months will provide them with enough time to complete the legal work involved in amending or discharging these final encumbrances. The revised expiry date for registration of the subdivision and zoning agreement on the new consolidated title with The Property Registry would be May 24th, 2020, if approved.

Please let us know if you have any questions, and advise at your earliest convenience whether the request for extension is acceptable. The mylars will be returned to your office along with payment for the extension as soon as possible to accommodate the extension request.

Sincerely,



**Andrew Lewthwaite** | MAA MRAIC
Managing Director | Associate Architect
Public City Architecture Inc.

cc: Devin Clark, Planning & Land Use Division
Rak Hayer, Planning & Land Use Division
Jason Bryk, Pitblado Law
Trevor Boquist, Boquist Developments

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Winnipeg Manitoba
R3G 0Y8 204 475 9323
publiccityarchitecture.com