Minute No. 679
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 14, 2021

Item No. 8 **Extension of Time – Subdivision and Rezoning – South Pointe Lands in Waverley West South East Area – Lot 2, Block 1, Plan No 51904 (Waverley West Ward)**
File DASZ 22/2007

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 time limit to satisfy the Coming into Force provisions of By-law No. 137/2009 be extended to November 25, 2023.

2. That no further extensions beyond November 25, 2023 be permitted.

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 – September 14, 2021

DECISION MAKING HISTORY:

Moved by Councillor Gilroy,

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 September 21, 2021, 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 September 14, 2021, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 2, 2021, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service with the following amendment:

- In Recommendations 1 and 2, delete the word “2022” and replace with “2023”

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

ADMINISTRATIVE REPORT

Title: Extension of Time – Subdivision and Rezoning – South Pointe Lands in Waverley West South East Area – Lot 2, Block 1, Plan No 51904 – File No. DASZ 22/2007

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
D. Trenchard	N/A	N/A	N/A

EXECUTIVE SUMMARY

The time limit for the Coming into Force provisions of By-law No. 137/2009 under File No. DASZ 22/2007 expires on November 25, 2021. 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. 137/2009 be extended to November 25, 2022.

2. That no further extensions beyond November 25, 2022 be permitted.

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

Council approval is required for an extension of time.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendation is concurred in, the Developer will be allowed one final time extension to November 25, 2022, to complete the necessary registrations at the Winnipeg Land Titles Office.

HISTORY/DISCUSSION

On November 21, 2007, Council adopted Item No. 6 of the report of the Standing Policy Committee on Property and Development dated October 30, 2007 which recommended approval of the subject subdivision and rezoning application to an "R1-3.5" Residential District, an "RM-2" and "RM-4" Multiple Family Districts, a "PR-1" Parks and Recreational District and a "C2" Commercial District under the Winnipeg Zoning By-law 6400/1994 as shown on Appendix "A" attached. Recommendation 4 contained in the Council Decision stipulated:

> "That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) period and the extension is subsequently approved by Council."

The rezoning By-law No. 82/2008 was passed by Council on April 23, 2008.

Section 4 of By-law No. 82/2008 stipulated:

Section 2 shall come into force and effect upon registration in the Winnipeg Land Titles Office of:

(a) The plan of subdivision approved by section 1; and

(b) A caveat recording Zoning Agreement DASZ 22/2007 against the affected land by not later than April 23, 2010, failing which this by-law shall expire unless that date is extended by resolution of City Council and registration is completed before such extended date.

On November 26, 2009, By-law No. 137/2009 was passed by Council to amend section 2 and repeal By-law No. 82/2008. See Appendix A attached.

Section 3 of By-law 137/2009 stipulated:

Section 2 comes into force for each lot upon registration in the Winnipeg Land Titles Office of:

(1) The plan of subdivision approved by section 1;

(2) A caveat recording Zoning Agreement DASZ 22/2007 against the subject lands; and

(3) A subsequent plan of subdivision which divides blocks of the subject lands into lots;

all by November 25, 2011, failing which this By-law expires unless that date is extended by resolution of City Council and the plan of subdivision, Zoning Agreement caveat, and any subsequent plans of subdivision are registered before such extended date.

On July 21, 2010, Council adopted Item No. 4 of the report of the Standing Policy Committee on Property and Development dated July 6, 2010 which recommended approval of an Extension of Time and that the time limit to satisfy the Coming into Force provisions of By-law 137/2009 be extended an additional ten (10) years to November 25, 2021.
By-law No. 137/2009 has not come into force by the required registration of the Zoning Agreement DASZ 22/2007 by caveat in the Winnipeg Land Titles Office and the ten (10) year time limit is due to expire on November 25, 2021.

On June 8, 2021, the Owner Ladco Company Limited ("Ladco"), c/o Michael Carruthers, 200 – 40 Lakewood Boulevard, Winnipeg, Manitoba, R2J 2M7 submitted a second application for an Extension of Time and requested that the time limit to satisfy the Coming into Force provisions of By-law No. 137/2009 be extended an additional two (2) years to November 25, 2023 in order to complete the required registrations. 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 is not acceptable. As mentioned in the extension request, Ladco has developed 96% of the South Pointe neighbourhood lands which surrounds the subject 17.6-acre future commercial site. The site remains zoned as "A" Agricultural District.

The intent to allow for the previous ten (10) year extension was to accommodate for orderly and sequential development of the community in accordance with the Waverley West South East Secondary Plan By-law 140/2007. Section 8.1.6 of the By-law allowed for staging of rezoning districts coming under force via short form subdivisions. This Section was subsequently identified as an error being contrary to the City of Winnipeg Charter and was amended under By-law 136/2009 removing this provision.

The subject property has continued to remain zoned as "A" Agricultural District in accordance with By-law 137/2009. The site has also maintained the assessed values as "farm use" which has provided a significant assessment reduction to the owner that has accumulated to approximately $116,000.00 over the past eleven (11) years. The current use of this land is not consistent with *The Classification of Property and Proportioned Values Regulation* under the Municipal Assessment Act, Regulation 184/98 which defines farming use as follows:

> *"**farming**" means commercial crop production and includes tillage of the soil, livestock production, raising poultry, dairy farming, fur farming, tree farming, bee keeping, fish farming, horticultural production, including flowers and shrubs, and any other activity undertaken to produce agricultural products on a commercial basis; and does not include the purchase and resale of agricultural products, or the commercial processing of agricultural products;"*

The Public Service recommends that the time limit to satisfy the Coming into Force provisions of By-law No. 137/2009 be extended no more than one (1) year to November 25, 2022 and that no further extensions be permitted.

CONSULTATION

Assessment & Taxation Department – see Appendix "C" attached.

OURWINNIPEG POLICY ALIGNMENT

The subject property as intended to be a commercially zoned site complies with the Waverley West South East Secondary Plan.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: A. Savage, Land Development Services Coordinator
Date: June 21, 2021
File No: DASZ 22/2007

Attachments: Appendix "A" – By-law 137/2009
Appendix "B" – Letter Requesting Extension of Time
Appendix "C" – Supporting Evidence

V:\3-Applications-SAVE\113-2021 – REPORTS\Extension of Time Request #2 DASZ 22-07

APPENDIX "A" – BY-LAW 137/2009, DASZ 22/2007

THE CITY OF WINNIPEG

BY-LAW NO. 137/2009

A By-law of THE CITY OF WINNIPEG to amend By-law No. 82/2008.

WHEREAS:

(a) Pursuant to its decision in DASZ 22/2007 on November 21, 2007, on April 23, 2008 Council passed By-law No. 82/2008 which approved a plan of subdivision and amended Winnipeg Zoning By-law No. 6400/94 to rezone land on the west side of Waverley Street between Lee Boulevard and the Perimeter Highway, in the Riel Community;

(b) Section 2 of By-law No. 82/2008 is incomplete with respect to zoning districts and coming into force provisions;

(c) Winnipeg Zoning By-law No. 200/2006 passed on December 19, 2007 redesignates zoning districts previously set out in Winnipeg Zoning By-law No. 6400/94;

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

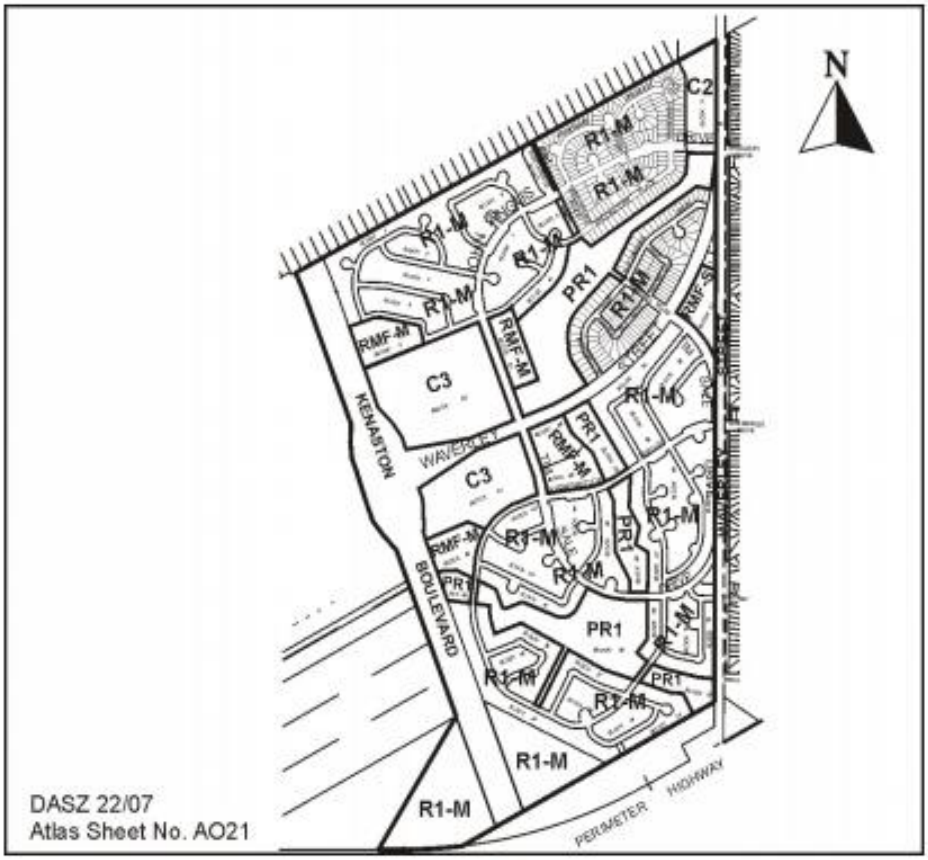
1 *By-law No. 82/2008 is amended:*

(1) by repealing section 2 and substituting the following:

2 Winnipeg Zoning By-law No. 200/2006 is amended by adding the following in Schedule B:

2(56) Notwithstanding anything elsewhere contained in this By-law or shown on the Zoning Maps, the lands designated on the plan below as "R1-M", "RMF-S", "RMF-M", "PR-1", "C2" and "C3" are hereby zoned as an "R1-M" Residential Single-Family (Medium) District, an "RMF-S" Residential Multi-Family (Small) District, an "RMF-M" Residential Multi-Family (Medium) District, a "PR1" Parks and Recreation 1 (Neighbourhood) District, a "C2" Commercial Community District and a "C3" Commercial Corridor District respectively, the zoning districts and zoning district boundaries are hereby located as shown on that plan, and the Zoning Maps shall hereafter be read and construed as shown on that plan, subject to a zoning agreement being entered into between The City of Winnipeg and the registered owner or persons entitled to be registered owner of the subject lands.

By-law No. 137/2009 2



(2) *by striking out the heading* "ENACTMENT" *before section 3 and substituting* "**Coming into force**".

(3) *by repealing section 4 and substituting the following:*

4 Section 2 comes into force for each lot upon registration in the Winnipeg Land Titles Office of:

(1) the plan of subdivision approved by section 1;

(2) a caveat recording Zoning Agreement DASZ 22/2007 against the subject lands; and

(3) a subsequent plan of subdivision which divides blocks of the subject lands into lots,

all by November 25, 2011, failing which this By-law expires unless that date is extended by resolution of City Council and the plan of subdivision, Zoning Agreement caveat, and any subsequent plans of subdivision are registered before such extended date.

(4) by striking out everything on page 5.

DONE AND PASSED in Council this 25th day of November, 2009.

APPENDIX "B" – LETTER REQUESTING EXTENSION OF TIME

LADCO COMPANY LIMITED
200 - 40 LAKEWOOD BOULEVARD, WINNIPEG, MANITOBA R2J 2M7
TELEPHONE (204) 982-5900 FAX (204) 255-3652

June 8, 2021

Ms. Angie Savage
Land Development Services Coordinator
City of Winnipeg
Land Development Branch
Main Floor, 65 Garry St.
Winnipeg, MB
R3X 4K4

Dear Ms. Savage:

Re: Extension of Time Application – Lot 2, Block 1 Plan No. 51904

Ladco Company Limited ("Ladco") is applying for an extension of time to enact the rezoning by-law on the above noted property in South Pointe. This is a ~17.6 ac future commercial property on the south east corner ("SE") of Kenaston Blvd and Waverley Street (see attached Schedules). Ladco is requesting a two-year extension of time to November 25, 2023 to enact the rezoning by-law for this property.

This is the last remaining property in South Pointe to have the rezoning by-law enacted. In July 2010, Ladco requested a 10-year period to enact the zoning by-law on the ~460 ac master plan community of South Pointe. The 10-year period of time was to enable orderly and sequential development of the community. It was expected that this would be adequate to develop the residential component of South Pointe. This has been accurate, as to-date Ladco has enacted the rezoning and developed over 96% of South Pointe including:

- Over 1400 single-family lots;
- 27 ac of multi-family;
- ~9 ac school site;
- ~64 ac of park space; and
- ~30 ac of commercial land at the north east corner of Kenaston and Waverley.

Plans for development of the SE corner are being prepared as are preliminary discussions with potential tenants. The past year has proven to be extremely challenging for the commercial real estate sector and it is expected to take time for the many related market uncertainties to be resolved.

With the uncertainties, along with the fact that over 96% of South Pointe has been developed, Ladco believes that a 2-year extension is more than reasonable. This will enable time to properly design, develop and implement plans for the remaining land in South Pointe.

In support of this request, please find enclosed:

- The application fee of $630.00;
- South Pointe community plan;
- Zoning map;
- Survey Sketch; and
- Status of Title

We appreciate your time and consideration with this matter, please contact me at any time should there be any comments or questions related to this matter.

Yours truly,
LADCO COMPANY LIMITED

Per:

Michael Carruthers, MCIP, RPP
Manager of Land Development

MC/

Enc.
cc: D. Borger


South Pointe
A NEW COMMUNITY BY:
Ladco Company Limited
Stage 1
Stage 2
Stage 3
Stage 4
Stage 5
Stage 6
Stage 7
RMF-M
C3
ÉCOLE SOUTH POINTE SCHOOL
KIRKBRIDGE DRIVE
STAN BAILIE DRIVE
KENASTON BOULEVARD
WAVERLEY STREET
PERIMETER HWY
LEGEND
MULTI-FAMILY DEVELOPMENT
COMMERCIAL DEVELOPMENT
RMF-M LANDUSE ZONING DESIGNATION
* THIS PLAN IS CONCEPTUAL AND SUBJECT TO CHANGE

APPENDIX "C" – SUPPORTING EVIDENCE

From: Strachan, Doug
Sent: Wednesday, June 30, 2021 10:45 AM
To: Savage, Angie <asavage@winnipeg.ca>
Subject: Roll 03-091615500

Good morning,

The summary below provides the approximate difference in assessed values from farm to commercial use model extracts reflecting the first year this parcel (03-091615500) was added to the Roll.

Roll Year	VCOMM Value
2012	$6,672,000
2013	$6,672,000
2014	$9,673,000
2015	$9,673,000
2016	$14,039,000
2017	$14,039,000
2018	$14,668,000
2019	$14,668,000
2020	$13,418,000
2021	$13,418,000
2022	$13,418,000

The Assessment and Taxation Department agree that the delay in this By-law 137/2009 coming into force impacts the assessment and taxes on this particular property as shown in the summary of approximate values below and we will support the Planning, Property and Development Department's recommendation and Council's final decision on the time extension.

Winnipeg

Doug Strachan, AAM
Property Assessor
Residential, Assessment & Taxation
City of Winnipeg
457 Main St, Winnipeg, MB R3B 1B5