Minute No. 784
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 8, 2022

Item No. 12 **Proposed Servicing Agreement – Proposed Subdivision of Land Located at 2091 Brookside Boulevard (Old Kildonan Ward) File DASSF 519/2022**

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 subdivision under Development Application No. DASSF 519/2022 be approved for preparation as a plan of subdivision (the "Plan") by a Manitoba Land Surveyor in accordance with the map attached as Schedule "A", with such changes as may be required, and registration in the Winnipeg Land Titles Office, subject to the following conditions:

    A. That the Developer be required to enter into a Servicing Agreement with the City pursuant to subsection 259(1) of The City of Winnipeg Charter in accordance with the report of the Administrative Coordinating Group dated June 6, 2022 and attached as Schedule "B" to this report, subject to the following amendment:

        i. Delete Condition 1) in its entirety and replace with the following:

            1. <u>Water Servicing</u>

                a) The Developer shall pay to the City, in cash, prior to the release of subdivision mylars for registration in the Winnipeg Land Titles Office, their share of the cost of the future water main to be installed in Brookside Boulevard, as determined by and to the satisfaction of the Director of Water and Waste.

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COUNCIL DECISION (continued):

b) The Developer shall, at no expense to the City, construct and install a private water service connection to the fronting water main in Brookside Boulevard, within 2 years of installation of said water main, for all proposed lots within the Planned Area, to the satisfaction of the Director of Water and Waste.

c) The Developer shall, at no expense to the City, construct an install temporary private water servicing (well and/or holding tank, or suitable alternative) for the proposed development, to supply adequate water servicing for the proposed use and building design, as determined by and to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development."

d) The Developer shall permit the City to file a caveat against the title(s) of each lot within the Planned Area requiring the Owner to connect to the fronting water main in Brookside Boulevard, within 2 years of installation of said water main, to the satisfaction of the Director of Water and Waste.

B. That the City enter into, execute and deliver with the Developer a Servicing Agreement in accordance with recommendation 1.A., 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").

C. That authority be delegated to the City's Director of Planning, Property and Development to negotiate and approve the terms and conditions of the Servicing 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.

2. That authority be delegated to the City's Director of Planning, Property and Development (the "Director") to negotiate and approve the terms and conditions of the Servicing 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.

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COUNCIL DECISION (continued):

3. That, in lieu of the dedication of land, the Developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of Development Application No. DASSF 519/2022, as determined by the City's Director of Planning, Property and Development.

4. That the subdivision will come into force when the Servicing Agreement is fully executed and the Plan is registered in the Winnipeg Land Titles Office.

5. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if the Servicing Agreement is not fully executed and the Plan is not registered in the Winnipeg Land Titles Office in accordance with Recommendation 4 within 2 years from the date of adoption of the report by Council, unless the Developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

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 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 14, 2022, 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 8, 2022, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee, with the following amendment:

- Add the following new Recommendation 1.A.i.1.d):

  "d) The Developer shall permit the City to file a caveat against the title(s) of each lot within the Planned Area requiring the Owner to connect to the fronting water main in Brookside Boulevard, within 2 years of installation of said water main, to the satisfaction of the Director of Water and Waste."

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

COMMUNITY COMMITTEE RECOMMENDATION:

On September 1, 2022, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- In Recommendation 1.A., delete the period after "Schedule "B" of this report", and replace with the following:

  ", subject to the following amendment:

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DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

i. Delete Condition 1) in its entirety and replace with the following:

1. Water Servicing

a) The Developer shall pay to the City, in cash, prior to the release of subdivision mylars for registration in the Winnipeg Land Titles Office, their share of the cost of the future water main to be installed in Brookside Boulevard, as determined by and to the satisfaction of the Director of Water and Waste.

b) The Developer shall, at no expense to the City, construct and install a private water service connection to the fronting water main in Brookside Boulevard, within 2 years of installation of said water main, for all proposed lots within the Planned Area, to the satisfaction of the Director of Water and Waste.

c) The Developer shall, at no expense to the City, construct an install temporary private water servicing (well and/or holding tank, or suitable alternative) for the proposed development, to supply adequate water servicing for the proposed use and building design, as determined by and to the satisfaction of the Director of Water and Waste and the Director of Planning, Property and Development."

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

On July 20, 2022, the Lord Selkirk – West Kildonan Community Committee further laid the matter over to its meeting on September 1, 2022.

On June 21, 2022, the Lord Selkirk-West Kildonan Community Committee laid the matter over for 30 days.

ADMINISTRATIVE REPORT

Title: Proposed Servicing Agreement – DASSF 519/2022 Proposed Subdivision of Land Located at 2091 Brookside Boulevard

Critical Path: Lord Selkirk – West Kildonan 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 Winnipeg Public Service has identified servicing requirements resulting from the proposed DASSF short-form subdivision application. Council approval is necessary for the City to enter into the necessary Servicing Agreement to fulfill the servicing conditions, in accordance with standard development practice.

RECOMMENDATIONS

1. That the subdivision under Development Application No. DASSF 519/2022 be approved for preparation as a plan of subdivision (the “Plan”) by a Manitoba Land Surveyor in accordance with the map attached as Schedule “A”, with such changes as may be required, and registration in the Winnipeg Land Titles Office, subject to the following conditions:

    A. That the Developer be required to enter into a Servicing Agreement with the City pursuant to subsection 259(1) of The City of Winnipeg Charter in accordance with the report of the Administrative Coordinating Group dated June 6, 2022 and attached as Schedule “B” to this report.

    B. That the City enter into, execute and deliver with the Developer a Servicing Agreement in accordance with recommendation 1.A., 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").

    C. That authority be delegated to the City’s Director of Planning, Property and Development to negotiate and approve the terms and conditions of the Servicing 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.

2. That authority be delegated to the City's Director of Planning, Property and Development (the "Director") to negotiate and approve the terms and conditions of the Servicing 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.

3. That, in lieu of the dedication of land, the Developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of Development Application No. DASSF 519/2022, as determined by the City's Director of Planning, Property and Development.

4. That the subdivision will come into force when the Servicing Agreement is fully executed and the Plan is registered in the Winnipeg Land Titles Office.

5. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if the Servicing Agreement is not fully executed and the Plan is not registered in the Winnipeg Land Titles Office in accordance with Recommendation 4 within 2 years from the date of adoption of the report by Council, unless the Developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

6. 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

In accordance with Clause 27(1)(b) of the Development Procedures By-law 104/2020, Council approval is required for the City to enter into Servicing Agreements that are a condition of approval under a short-form subdivision application (DASSF).

IMPLICATIONS OF THE RECOMMENDATIONS

Concurrence with this recommendation will enable servicing conditions to be applied to this application via a Servicing Agreement.

HISTORY/DISCUSSION

An application was received from Landmark Planning and Design Inc. for a proposed plan of subdivision as outlined in Schedule "A" in order to allow for the creation of an infill industrial lot for the future establishment of an auto/light truck/motorcycle repair and service, sales and rental use.

The application was circulated for review and comment by internal and external stakeholder departments. At the time of application, OurWinnipeg Plan By-law 67/2010 was still in force and effect. Under OurWinnipeg, the Public Service can only support a subdivision if it is serviced by a full range of municipal services or a sustainable alternative. A full range of municipal services is defined in OurWinnipeg as: "piped water, piped wastewater, piped land drainage and an urban standard roadway." Sustainable alternatives can be considered per the following policy:

Enable the consideration of sustainable alternatives for the traditional full range of municipal services that are proven by the developer and approved by the City of Winnipeg as providing a comparable level of service and safety in an environmentally-sound and economical manner.

It should be noted that the same policies regarding a full range of municipal services or a sustainable alternative are found in OurWinnipeg 2045/Complete Communities Direction Strategy 2.0.

The Public Service is recommending approval of the Plan of Subdivision, subject to the Developer installing a fronting water main, and related works, to service the Planned Area and adjacent lands in accordance with an accepted servicing report. Installation of the water main will allow the Developer to satisfy the requirement for a full range of municipal services. Though the Developer is proposing a cistern as a sustainable alternative to piped water, the Public Service cannot accept this because private servicing is not a suitable alternative municipal service, but rather an alternative to municipal service(s).

It is therefore recommended that the Developer enter into a Servicing Agreement with the City to fulfill the conditions outlined in the attached Schedule “B”, the report of the Administrative Coordinating Group.

CONSULTATION

This Report has been prepared in consultation with:

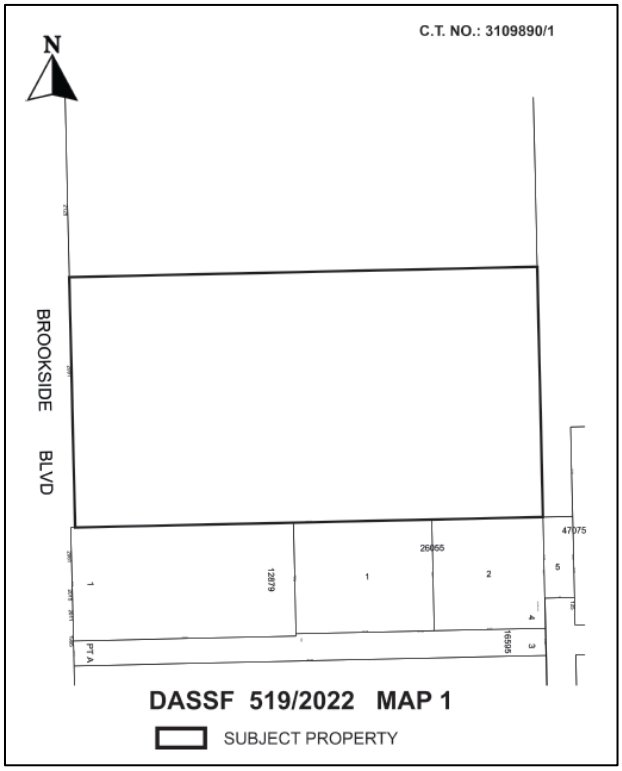
Urban Planning
Water and Waste Department

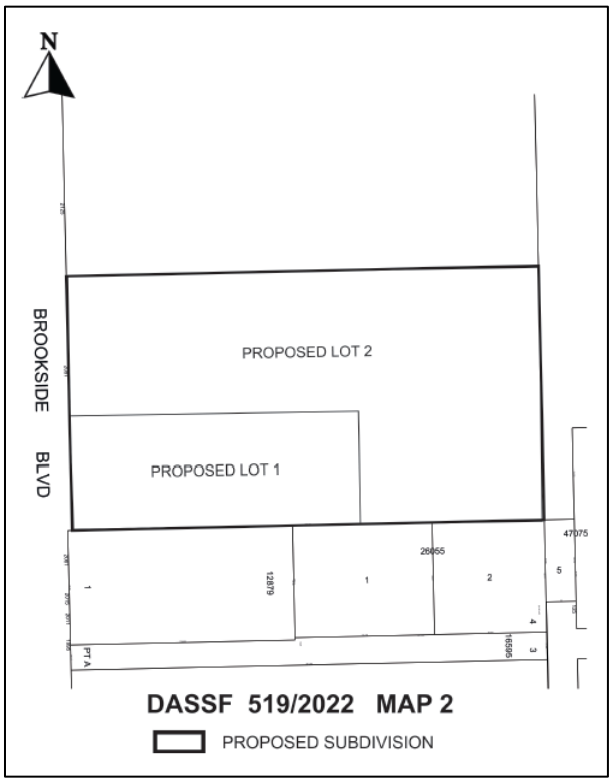
SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: D. Trenchard, P.Eng., Land Development Engineer
Date: June 7, 2022
File No: DASSF 519/2022

Attachments:
Schedule “A” – Proposed Plan of Subdivision (DASSF 519/2022)
Schedule “B” – Report of the Administrative Coordinating Group

SCHEDULE "A" – Proposed Plan of Subdivision





SCHEDULE "B" – REPORT OF THE ADMINSTRATIVE COORDINATING GROUP

SCHEDULE B

REPORT OF THE ADMINISTRATIVE COORDINATING GROUP

RE: PROPOSED SUBDIVISION ON LAND LOCATED AT 2091 BROOKSIDE BOULEVARD

It is recommended that approval of DASSF 519/2022, if granted, be subject to the applicant entering into a Servicing Agreement containing the following conditions:

Section I – General Comments

1) The Water and Waste Department has advised that the Developer shall enter into, and register and maintain in perpetuity by way of caveat against the titles to the "affected lots" (all lots which are to be serviced jointly), an appropriate joint services agreement or private easement agreement with owners of the other affected lots to enable the joint servicing of lots in the Planned Area with wastewater servicing. Said agreement shall further absolve the City from any costs or responsibility for the private joint services.

2) The Developer shall, at no expense to the City, service the site with a single private non-conforming wastewater service pipe to jointly provide service to both proposed Lots 1 and 2 (shared services).

3) The Public Works Department has advised that the Developer and all successors in title to proposed Lots 1 and 2 shall enter into, and register at the Winnipeg Land Titles Office (WLTO) under Section 76 of the Real Property Act, and maintain in perpetuity by way of instrument (right of way agreement, easement agreement, or declaration) against the titles to the lots, a private cross-access agreement with the owner of the other lot so as to ensure vehicular access to each lot at all times, via streets or internal roads.

4) The cross-access agreement shall be reviewed and approved by the Public Works Department prior to registration at WLTO.

Section II - Servicing Conditions

1) Water Mains

The Developer shall, at no expense to the City, construct and install all water mains required to serve the Planned Area and adjacent lands as indicated by the servicing report, to the satisfaction of the Director of Water and Waste.

2) Regional Land Drainage System

The Developer shall pay to the City, in cash, prior to the release of subdivision mylars for registration in the Winnipeg Land Titles Office, their share of the cost of the regional land drainage system, as determined by and to the satisfaction of the Director of Water and Waste.

3) Construction Traffic

a) The Developer shall ensure that construction traffic uses access routes as determined by the Director of Public Works.

b) The Developer shall maintain, at no expense to the City, the access routes in a clean, dust free and safe condition, free of dropped and tracked-on mud, and shall undertake regular scraping and sweeping of streets until building construction, including landscaping is complete, all as determined by and to the satisfaction of the Director of Public Works.

4) Utilities

a) The Developer shall, at no expense to the City, cause underground electrical and telephone services to be installed to serve the Planned Area and will pay the full cost to convert any existing overhead services within the Planned Area to underground to the satisfaction of the Director of Public Works.

b) The Developer shall pay all costs associated with the relocation of street lights and other utilities made necessary as a result of, or required to accommodate, the works to be constructed by the Developer to serve the Planned Area, as determined by and to the satisfaction of the Director of Public Works.

5) Litter and Refuse Control and Clean-Up

a) The Developer shall, at no expense to the City, and of its own volition, initiate and control the regular cleanup of litter and refuse from the contractors and builders for this development, both on-site and off-site, during the installation of services and construction of buildings, until substantial completion of all construction, as determined by and to the satisfaction of the Director of Public Works.

b) The cleanup of litter and refuse shall be done on a regular basis as determined by the Director of Public Works. This shall include initiating action and assuming any costs in remedying the situation to the satisfaction of the Director of Public Works.

6) Survey Monuments

a) Subsequent to completion of the Planned Area, as determined by the Director of Planning, Property and Development, the Developer shall pay the full costs of having all survey monuments within the Planned Area verified and/or restored by a Manitoba Land Surveyor and shall prepare a Plan of Survey Perpetuating Certain Monuments, confirming the position of all the survey monumentation within the Planned Area, for filing in the Winnipeg Land Titles Office.

b) In certain circumstances where all the survey monuments within the Planned Area have been found or restored to their original positions, upon approval by the Director of Planning, Property and Development, the requirements for Plan of Survey Perpetuating Certain Monuments may be waived.

Section III – Costs and Fees

1) By-laws and Approvals

The Developer shall pay all of its and the City's costs, fees, and expenses associated with the preparation and attainment of approval for registration of the Zoning By-law(s) and plan(s) of subdivision, including all Municipal Board, Land Titles Office and other fees and expenses, all survey, engineering and advertising fees and costs, and all expenses incidental to the preparation of this Agreement and the physical development of the Planned Area.

2) Professional Fees

a) The Developer shall pay the full cost of all design services, including preliminary engineering studies, servicing reports, servicing criteria, construction drawings and specifications, and grading and landscaping plans and specifications, to be provided by Consulting Engineer(s) approved by the City, for the design of the municipal services, parklands, parkways and associated works required to serve the Planned Area;

b) The Developer shall pay the full cost of construction and landscaping supervision services provided by or on behalf of the City for field inspection, preparation of progress estimates, provision of as-built drawings by March 31 of the year following substantial performance of the work, and all other engineering consulting services related to the installation and acceptance of municipal services, and all associated works to serve the Planned Area.

3) Administration Fees

The Developer shall pay to the City, prior to the release of the subdivision mylars for registration in the Land Titles Office, an administration fee plus applicable GST to help defray the City's administration and related costs associated with the preparation and implementation of the Development Agreement.

THIS REPORT SUBMITTED BY:

Administrative Coordinating Group
File No. DASSF 519/2022
June 6, 2022

"*Original Signed by D. Trenchard"*
D. Trenchard, P. Eng.
Land Development Branch
Planning, Property and Development Department

"*Original Signed by M. Gajda"*
M. Gajda, P. Eng.
Engineering Division
Water and Waste Department

"*Original Signed by C. Desjardine"*
C. Desjardine, M. Sc., P. Eng.
Transportation Division
Public Works Department