Minute No. 560
Report - Standing Policy Committee on Property and Development - July 9, 2004

Item No. 3 **Amendment to Development Agreement - 55555 Ventures Corp. Inc. - west side of Plessis Road north of the CNR Redditt Subdivision File DASZ 12/2003**

COUNCIL DECISION:

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

1. That Development Agreement 12/2003 be amended as follows:

   A. Reduce the amount payable in lieu of public open space dedication by the amount of $30,000.00, including G.S.T., to compensate the Developer for the City's share of the cost of services installed by the Developer in Robson Street abutting Robson Park.

   B. Delete the requirement for the Developer to transfer Lots 29 and 30, in Block 2, for development control purposes and replace same with a clause that the Developer shall transfer to the City for $1.00 the 9 (nine) metre easement across Lots 28 and 29, in Block 2, as a pedestrian walkway and emergency access. The Developer shall be required to construct a concrete sidewalk and place sod between the sidewalk and the private property lines and install bollards across both ends of the walkway, all as determined by and to the satisfaction of the Director of Public Works.

2. 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 Pagtakhan,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 14, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 9, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 1, 2004, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation with the following amendment:

- That Recommendation 1. be amended by deleting the word “$36,000.00” and replacing it with the word “$30,000.00”,

and submitted its recommendation to the Standing Policy Committee on Property and Development.

Re: Development Agreement AG 12/03 -
55555 Ventures Corp. Inc.

On September 24, 2003 Council approved DASZ 12/03 being an application to subdivide and rezone land located on the west side of Plessis Road north of the CNR Redditt Subdivision subject to the Developer entering into a Development Agreement dealing with the installation of services, development control, exchange of lands, payment of land dedication fees, etc. The Development Agreement AG 12/03, was executed by the Developer and the City on April 29, 2004 and April 30, 2004, respectively.

Under the terms of the Development Agreement AG 12/03 the Developer is required to install services at no expense to the City in all streets within the proposed subdivision including Robson Street abutting Robson Park.

Under the terms of AG 12/03, the Developer is required to pay cash in lieu of dedication of land for public open space. (Although the Developer was required to dedicate a 15.24m (50') strip of land to the City along the CNR Redditt Subdivision, that land was not considered as public open space and was therefore not included in any of the open space calculations.) In accordance with Council policy, cash in lieu of dedication is calculated on the basis of 8% of the value of the land within the subdivision and amounts are then added for the value of serviced frontage and landscaping associated with the dedication of the park within a suburban subdivision if a park had been required. In the case of AG 12/03, the dedication fee was calculated as follows:

i)	Land value	0.08 x 9.36 acres x $20,000.00 / acre =	$14,976.00
II)	Landscaping and services	0.08 x 9.36 acres x $71,300.00 / acre =	$53,389.44
iii)	G.S.T. (7%) on i) and ii) above		$ 4,785.58
			$73,151.02

Under the terms of Development Agreement AG 12/03, the Developer is required to transfer to the City Lots 29 and 30, Block 2 located at the northeast corner of the proposed subdivision for development control purposes. At the time the public hearing was held for DASZ 12/03, the property known as 1164 Plessis Road and legally described as Lot 4, S.P. Plan 19188 was vacant and it was the City's intent that this land should not be developed with access directly onto Plessis Road due to the proximity of the future / proposed underpass of the CNR Redditt Subdivision. A condition of approval of DASZ 12/03 was therefore included whereby the Developer would transfer Lots 29 and 30, Block 2 to the City to enable the property known as 1164 Plessis Road to be developed fronting onto the new street within DASZ 12/03. A sketch attached as Schedule A to this report shows Lots 28 and 29 in Block 2 and Lot 4, S.P. Plan 19188 (1164 Plessis Road).

In a letter dated April 14, 2004, the Developer's Solicitor Richard Stefanyshyn, requested that the Developer be compensated by the City for the cost of services being installed in Robson Street

abutting Robson Park. Mr. Stefanyshyn also requested that Lots 29 and 30, Block 2 be returned to the Developer as the owner of 1164 Plessis Road has constructed a dwelling on the subject land fronting onto Plessis Road.

The Planning, Property and Development Department has reviewed Mr. Stefanyshyn's requests on behalf of his client and is in concurrence therewith for the following reasons:

1. With respect to the cost of services in Robson Street, it is City policy to allow developers to request the City to recover servicing costs on their behalf when those services benefit property not owned by the developer. In this case the property is owned by the City and it is therefore not appropriate to enact Local Improvement by-laws to recover the servicing costs.

The Developer is required to construct a street pavement, sidewalk and ornamental street lighting in Robson Street abutting 256.4' of Robson Park frontage. Based on 2004 Local Improvement rates those services are worth $36,000.00 ie. 256.4' x $140.40 / foot.

2. With respect to the return of Lots 29 and 30, Block 2, Mr. Stefanyshyn is correct. During the fall of 2003, the Owner of 1164 Plessis Road constructed a dwelling on the property which action in effect eliminated the City's intent that the property be developed with internal access. As shown on attached Schedule A, the Developer has granted easements to the City to a total width of 9m across Lots 28 and 29 in Block 2 for the purpose of connecting the subdivision services to the watermain, wastewater sewer and land drainage sewer in Plessis Road. Although the easements are across lands owned by the Developer, the Developer as agreed to transfer the affected 9m strip to the City for $1.00 for use as a pedestrian walkway and emergency access.

It is therefore recommended that Development Agreement 12/03 be amended as follows:

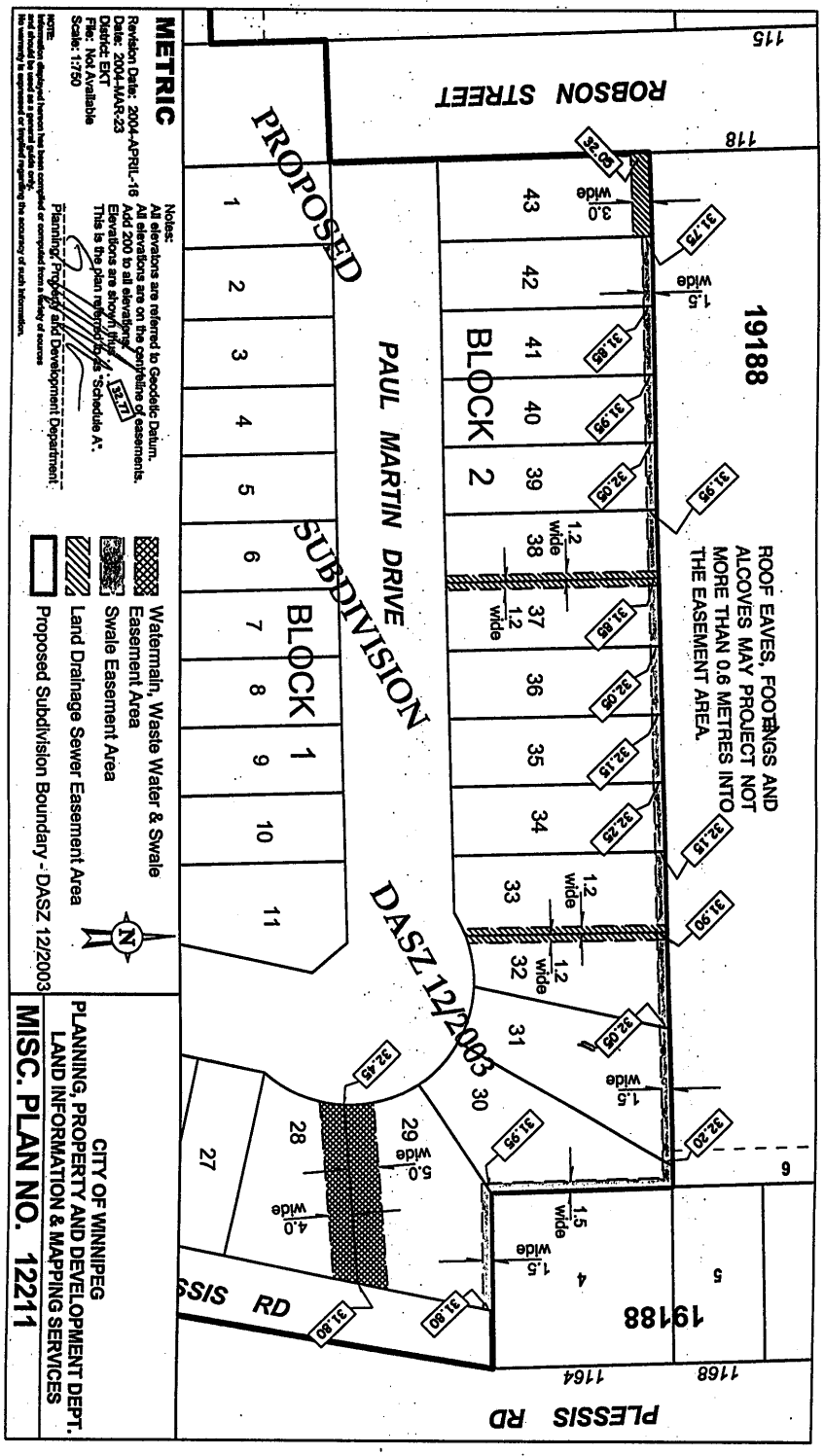
1. By reducing the amount payable in lieu of public open space dedication by the amount of $36,000.00 including G.S.T. to compensate the Developer for the City's share of the cost of services installed by the Developer in Robson Street abutting Robson Park.

2. By deleting the requirement for the Developer to transfer Lots 29 end 30 in Block 2 for development control purposes and replacing same with a clause that the Developer shall transfer to the City for $1.00 the 9m easement across Lots 28 and 29 in Block 2 as a pedestrian walkway and emergency access. The Developer shall be required to construct a concrete sidewalk and place sod between the sidewalk and the private property lines and install bollards across both ends of the walkway all as determined by and to the satisfaction of the Director of Public Works.

THIS REPORT SUBMITTED BY:

Administrative Coordinating Group
File No. AG 12/03
May 27, 2004
attachment
v:acg report/03ag12 (b) -report
RIEL COMMUNITY COMMITTEE
September 25, 2003
AG 27/03

(original signed by E.L. Carrière)
Land Development Engineer



Schedule "A" to AG 12/03