Minute No. 391
Report – Standing Policy Committee on Property and Development – April 6, 2023

Item No. 11 Approval of Proposed Subdivision and Servicing Agreement for Land Located at 1284 Wilkes Avenue (Charleswood-Tuxedo-Westwood Ward) File DASSF 566/2022

COUNCIL DECISION:

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

1. That the subdivision under Development Application No. DASSF 566/2022 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 February 16, 2023 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.

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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 566/2022, 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 Browaty,

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

Carried

Councillors Rollins, Santos and Schreyer were absent from the vote on the above motion.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 18, 2023, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On April 6, 2023, the Standing Policy Committee on Property and 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 March 21, 2023, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

ADMINISTRATIVE REPORT

Title: Approval of Proposed Subdivision and Servicing Agreement for Land Located at 1284 Wilkes Avenue - DASSF 566/2022

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
K. Kowalyk	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 566/2022 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 February 16, 2023 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 566/2022, 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 Stoffel Surveys M.L.S. for a proposed plan of subdivision as outlined in Schedule "A" in order to allow for the creation of industrial building lots for future development.

The Public Works Department and Water and Waste Department have identified various improvements that would be required to accommodate the proposed development.

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:

Public Works Department
Water and Waste Department

OURWINNIPEG POLICY ALIGNMENT

This report aligns with OurWinnipeg 2045, Policy 6.36 Full Range of Municipal Services, by enabling the installation of the municipal services.

Objective: Facilitate planned and orderly development.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

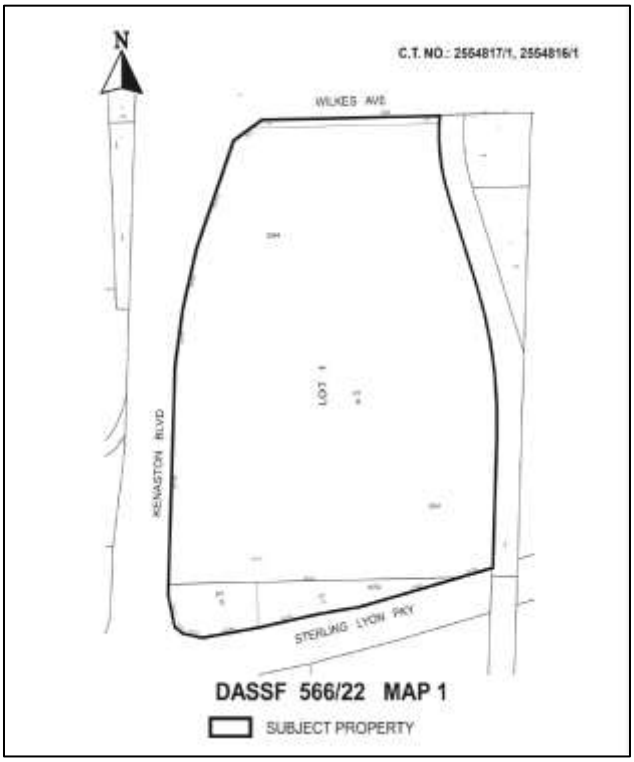
Consideration was given as to whether this report connects to the Winnipeg Poverty Reduction Strategy (PRS) and its Goals and Objectives, and it was determined that the PRS is not applicable to this specific report.

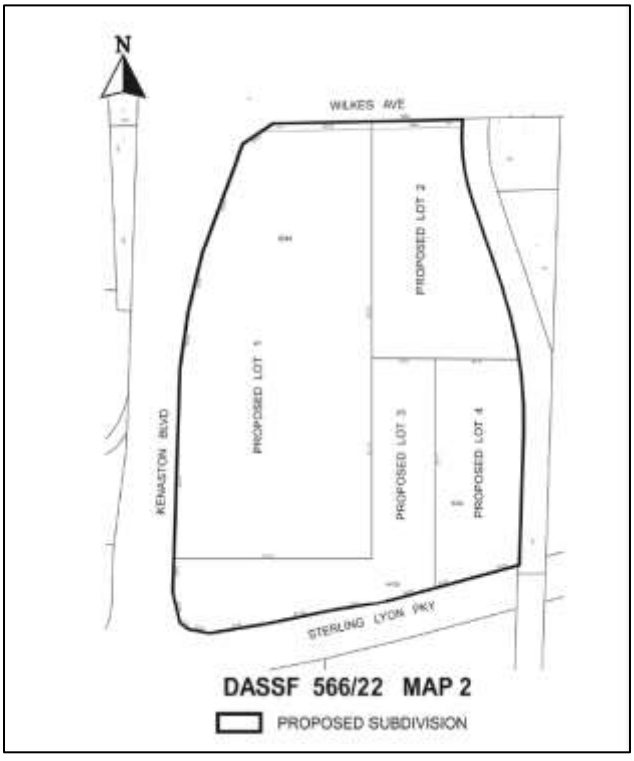
SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: K. Kowalyk, P.Eng., Land Development Engineer
Date: February 16, 2023
File No: DASSF 566/2022

Attachments:
Schedule “A” – Proposed Plan of Subdivision (DASSF 566/2022)
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 OF LAND LOCATED AT 1284 WILKES AVENUE

It is recommended that approval of DASSF 566/2022, if granted, be subject to the applicant entering into a Servicing Agreement containing the following conditions:

Section I – Engineering Studies

1) The Developer shall, at no expense to the City, conduct geotechnical investigations in accordance with the City's "Guidelines for Site Investigation Requirements for Public Works Street Projects" and develop pavement designs, all to the satisfaction of the Director of Public Works.

2) The Developer shall, at no expense to the City, submit to the Public Works Department, a Transportation Impact Study to review the impacts of the proposed development to the City's transportation network, to be approved by the Public Works Department prior to the release of mylars, all as determined by and to the satisfaction of the Director of Public Works.

3) The Developer shall, at no expense to the City, construct and/or pay their share of the recommended improvements, as per the approved Transportation Impact Study or the Public Works Department, all as determined by and to the satisfaction of the Director of Public Works.

Section II - Servicing Conditions

1) Joint Servicing Easement Agreement

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 water, wastewater and land drainage servicing. Said agreement shall further absolve the City from any costs or responsibility for the private joint services.

2) Cross Access Agreement

a) The Developer and all successors in title to the lots in the subdivision 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.

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

3) Wastewater Sewers

a) The Developer shall, at no expense to the City, construct the wastewater sewer required to service the Planned Area, as determined by and to the satisfaction of the Director of Water and Waste.

b) The Developer shall pay to the City, in cash, on demand, their share of the wastewater sewers on Sterling Lyon Parkway, Whidden Gate and Lindenwood Drive if applicable, as determined by and to the satisfaction of the Director of Water and Waste.

4) Land Drainage Sewers

a) The Developer shall, at no expense to the City, construct the land drainage sewer required to service the Planned Area and adjacent lands as determined by and to the satisfaction of the Director of Water and Waste.

b) The City shall reimburse the Developer for land drainage sewer oversizing, subject to availability of funding, or when the share of costs from benefitting parties has been collected, with interest if applicable in accordance with the City's Development Agreement Parameters, as determined by the Director of Water and Waste.

5) 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 (South Tuxedo Trunk Service, Sub-trunk charge and Park Boulevard Trunk Charge), as determined by and to the satisfaction of the Director of Water and Waste.

6) Sterling Lyon Parkway

a) The Developer shall, at no expense to the City, construct a 1.5m wide by 100mm thick Portland cement concrete sidewalk on the north side of Sterling Lyon Parkway, abutting the Planned Area, as determined by and to the satisfaction of the Director of Public Works. Alternatively, the Developer shall pay all costs of the above works, if constructed by others.

b) The Developer shall, pay to the City, on demand, 50% of the costs associated with the construction of a sidewalk and all related works on the north side of Sterling Lyon Parkway across the Canadian National Railway subdivision including 50% of the costs associated with the installation of railway crossing protection for the sidewalk, as determined by and to the satisfaction of the Director of Public Works.

7) Wilkes Avenue

The Developer shall, pay to the City, on demand, their share of the cost of the following services, to be installed by the City and/or others in Wilkes Avenue, along the full length of the Planned Area abutting Wilkes Avenue:

i. a 5.0m-wide lane of pavement, including land drainage works;
ii. a 1.5m or 1.8m wide Portland cement concrete sidewalk in the south boulevard;
iii. boulevard landscaping in the south boulevard;
iv. ornamental street lighting in the south boulevard;

and all related works, all as determined by the Director of Public Works.

8) 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.

9) 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.

10) 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.

11) 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 Co-ordinating Group
File No. DASSF 566/2022
February 16, 2023

"*Original Signed by K. Kowalyk"*
K. Kowalyk, 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