Agenda – Executive Policy Committee – November 14, 2023

Report – Standing Policy Committee on Property and Development – November 2, 2023

Item No. 5 Amendment to Development Agreement AG 5/21 – 2762 King Edward Street (Old Kildonan Ward)

STANDING COMMITTEE RECOMMENDATION:

On November 2, 2023, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the following to Council:

1. That Servicing Agreement No. AG 5/21 dated June 24, 2021 (the "Servicing Agreement"), entered into pursuant to Development Application No. DASZ 5/2021, be amended in Section 1, Clause 1 of Schedule "C" to defer payment by the Developer of their share of services to be installed in King Edward Street until such time as the construction of these services is set to commence, with the share being calculated based on a frontage of 847 feet, subject to the condition that the Developer post security in accordance with this report.

2. That the City enter into, execute and deliver an agreement to amend the Servicing Agreement in accordance with Recommendation 1 (the "Amending Agreement"), and such other agreements determined by the City Solicitor/Director of Legal Services to be necessary to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the Amending Agreement and the Ancillary Agreements in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Agenda – Executive Policy Committee – November 14, 2023

Report – Standing Policy Committee on Property and Development – November 2, 2023

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On November 2, 2023, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On October 24, 2023, the Lord Selkirk-West Kildonan 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: Amendment to Development Agreement AG 5/21 – 2762 King Edward Street

Critical Path: Lord Selkirk-West Kildonan Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Hayer, RPP, MCIP	N/A	N/A	N/A

EXECUTIVE SUMMARY

Gurdwara Kalgidhar Darbar Inc. (the Developer) is requesting an amendment to Development Agreement AG 5/21, pertaining to the site at 2762 King Edward Street.

The proposed amendment to Section 1, Clause 1 of Schedule “C” seeks to defer the timing of payment for the Developer’s share of services to be installed in King Edward Street abutting the subject property, until such time as the construction of these upgrades is set to commence.

The Public Service has no objection to this request.

RECOMMENDATIONS

1. That Servicing Agreement No. AG 5/21 dated June 24, 2021 (the “Servicing Agreement”), entered into pursuant to Development Application No. DASZ 5/2021, be amended in Section 1, Clause 1 of Schedule “C” to defer payment by the Developer of their share of services to be installed in King Edward Street until such time as the construction of these services is set to commence, with the share being calculated based on a frontage of 847 feet, subject to the condition that the Developer post security in accordance with this report.

2. That the City enter into, execute and deliver an agreement to amend the Servicing Agreement in accordance with recommendation 1 (the “Amending Agreement”), and such other agreements determined by the City Solicitor/Director of Legal Services to be necessary to implement the intent of the foregoing (the “Ancillary Agreements”).

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the Amending Agreement and the Ancillary Agreements in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

4. 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 a Development Agreement Amendment.

IMPLICATIONS OF THE RECOMMENDATIONS

If the Recommendation of the Winnipeg Public Service is concurred in, the proposed amendment will enable the Developer's obligation to pay their share of services to be installed in King Edward Street to be deferred until such time as the construction of these upgrades are set to commence

HISTORY/DISCUSSION

On June 24, 2021 Council enacted By-law No. 102/2021, which approved the subdivision and rezoning of 2762 King Edward Street under file no. DASZ 5/2021. The approximately 7.85-acre property, located in the North Inkster Industrial neighbourhood of the Old Kildonan Ward, presently contains a place of worship. Under DASZ 5/2021, the site was approved for rezoning from "A PDO-1 AIRPORT VICINITY" Agricultural District to "EI PDO-1 AIRPORT VICINITY" Educational and Institutional District.

Pursuant to the above-referenced approval, Gurdwara Kalgidhar Darbar Inc. (the Developer) entered into Development Agreement AG 5/21 with the City of Winnipeg outlining the municipal infrastructure required to develop the property. This agreement includes a clause requiring the Developer to pay their share of services to be installed in King Edward Street, in accordance with Clause 1 under Section 1 of Schedule "C", as follows:

1. <u>King Edward Street</u>

a) The Developer shall pay to the City, in cash, on demand, prior to the release of subdivision mylars for registration in the Winnipeg Land Titles Office, their share of the following services to be installed in King Edward Street along the full length of the Planned Area:

i. Portland cement concrete pavement and all related works;

ii. Multi-use pathway in the west boulevard;

iii. Ornamental street lighting in the west boulevard; and

iv. Landscaping in the west boulevard,

all as determined by and to the satisfaction of the Director of Public Works.

Based on the 2022 rates, that share is calculated as follows:

978 feet x $585.00/ft (pavement) = $572,130.00.

978 feet x $61.00/ft (pathway) = $59,658.00.

978 feet x $100.00/ft (street lighting) = $97,800.00.

978 feet x $60.00/ft (landscaping) = $58,680.00.

Subtotal = $788,268.00

G.S.T. (5%) = $39,413.40

Total = $827,681.40.

Correspondence was received from the Developer to consider a formal request to amend the development agreement. The proposed amendment seeks to defer the Developer's financial obligation towards the installation of services in King Edward Street abutting the subject property, until the actual onset of construction, instead of being required prior to the release of subdivision mylars.

In addition, due to the skewed orientation of the northwest lot line, frontage measurements—used to determine the Developer's share of the King Edward improvements—will also be adjusted. The initial frontage measurement of 978 feet, identified in the Agreement, was based on the linear distance of the east lot line. This will be adjusted to 847 feet in recognition of the skewed lot line.

Should the proposed amendment be approved, and to guarantee the Developer's commitment to make "on demand" payments, the posting of a security equal to 100% of the cost to install said services in King Edward Street will be required, in an amount determined by the Director of Public Works and in a form satisfactory to the City Solicitor.

The Public Service has no objection to the proposed amendment.

Therefore, it is recommended that Clause 1 under Section 1 of Schedule C in the development agreement for AG 5/21 be amended by striking the words *"prior to the release of subdivision mylars for registration in the Winnipeg Land Titles Office"* and revising the calculation used to determine the Developer's share to be based on a frontage of 847 feet, rather than 978 feet.

FINANCIAL IMPACT

N/A

CONSULTATION

Public Works Department
Legal Services

OUR WINNIPEG POLICY ALIGNMENT

01-1a OurWinnipeg Approach to City Building: *Promote compact urban form and manage the extension of municipal services for new growth: Support new developments that are contiguous with existing developments to minimize the spatial use of land and the extension of services.*

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Ensure New Areas of Growth are Designed According to the Principles of Complete Communities.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

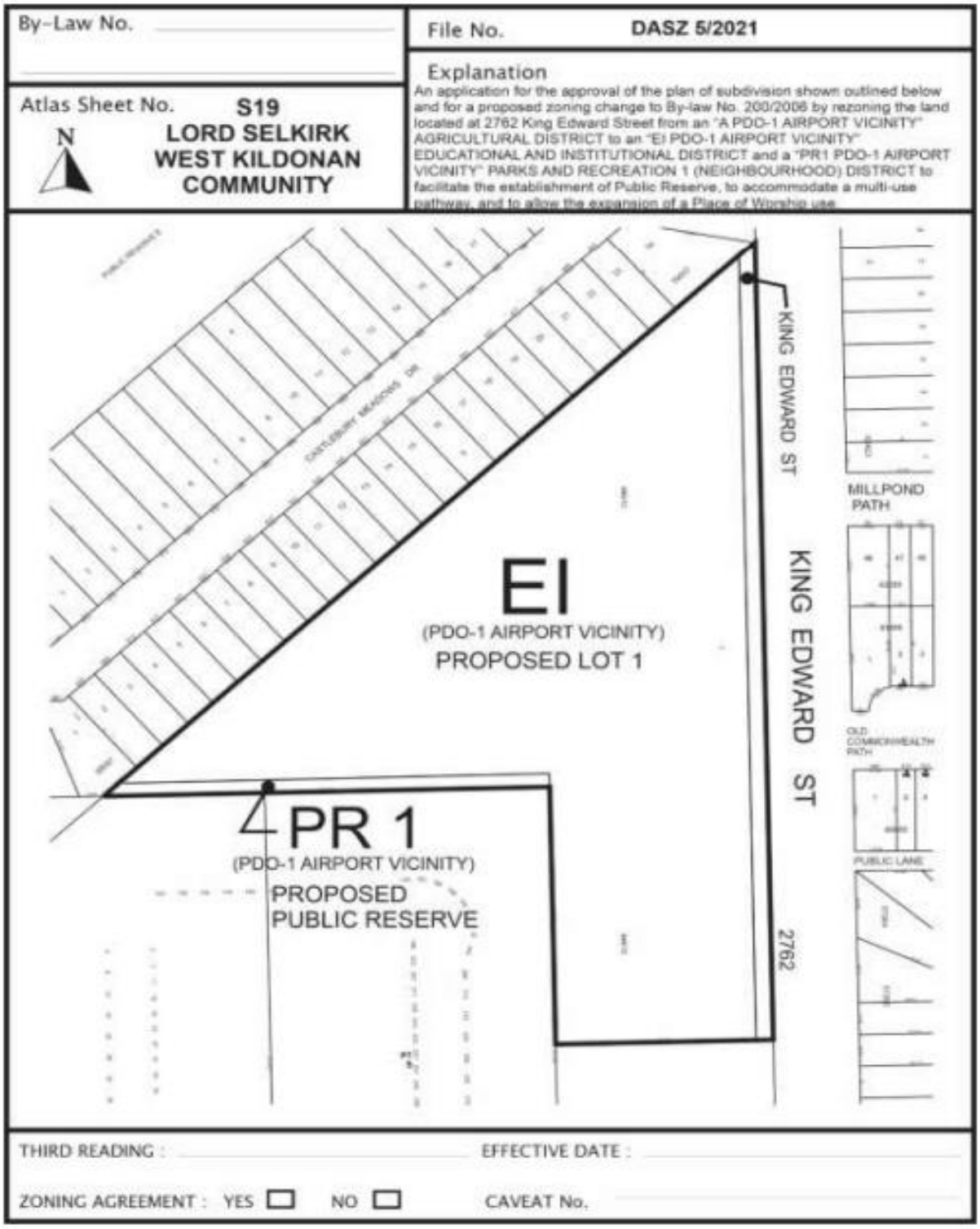
N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: R. Hayer, RPP, MCIP, Land Development Coordinator
Date: October 12, 2023
File No: AG 5/21 c/r DASZ 5/2021

Attachments: Appendix “A” – DASZ 5/2021 Planned Area
Appendix “B” – Developer’s letter dated September 22, 2023

APPENDIX "A" – DASZ 5/2021 Planned Area



APPENDIX "B" – DEVELOPER'S LETTER

Extension of Time Request By-law 102/2021

Letter of Intent

I am writing with respect to an Extension of Time request on the above noted application since the related By-law 102/2021 is set to expire on November 25, 2023.

The reason for the request for the extension and for the delay in completing the application's registration at LTO is a result of our request to the City of Winnipeg to amend the development agreement on DASZ 5/2021 - 2762 King Edward Street as it pertains to infrastructure upgrade fee on King Edward Street. We have formally requested to Greg Jasper from the Land Development Administrator, Real Estate and Development Division, that the development agreement be amended to delay the timing of the payment to the City of Winnipeg of said upgrades to when the actual construction is scheduled to occur.

Regards,

Gurpal Bhullar

Gurpal Bhullar
President
GURDWARA KALGIDHAR DARBAR INC

Sep 22-2023