Agenda - Executive Policy Committee – June 13, 2007

PUBLIC HEARINGS

Item No. 2 **Appeal under Plan Winnipeg By-law No. 7630/2000 – 2689 McPhillips Street**
File EP-1.1(PW)

On May 3, 2007, David C. Golub, Barrister and Solicitor, Levene Tadman Gutkin Golub, appealed the decision dated April 12, 2007, issued by the Zoning and Permits Administrator, Development and Inspection Division, Planning, Property and Development Department, regarding provisions of Plan Winnipeg By-law No. 7630/2000 for the premises located at 2689 McPhillips Street.

The decision stated:

The proposal is contrary to Section 3B-08 of Plan Winnipeg as a full range of municipal services is not currently available to service the development.

Consequently, any application to subdivide the subject property will be refused without a hearing pursuant to Section 275(2)(a) of The City of Winnipeg Charter.

ADMINISTRATIVE RECOMMENDATION:

That the Executive Policy Committee concur with the interpretation of the Administration that an application to subdivide the subject property is contrary to Plan Winnipeg and should be rejected in accordance with Section 275(2) of the City of Winnipeg Charter.

Agenda - Executive Policy Committee – June 13, 2007

Appellant: David C. Golub, Barrister and Solicitor, Levene Tadman Gutkin Golub

Premises Affected: 2689 McPhillips Street

Exhibits Filed:

1. Decision dated April 12, 2007, issued by the Zoning and Permits Administrator, Development and Inspection Division, Planning, Property and Development Department
2. Notice of Appeal filed by David C. Golub, Barrister and Solicitor, Levene Tadman Gutkin Golub received May 7, 2007
3. Notification of Public Hearing dated May 11, 2007
4. Report from the Acting Director of Planning, Property and Development dated June 8, 2007

REPRESENTATIONS:

In Support of Appeal:

In Opposition to Appeal:

For Information on Appeal:

For the City:

Moved by Councillor

That the receipt of public representations be concluded.

Moved by Councillor

That the Appeal(s) be allowed / allowed in part / denied and the decision of the Zoning and Permits Administrator, Development and Inspection Division, Planning, Property and Development Department, be confirmed / cancelled.

Moved by Councillor

That the public hearing with respect to this appeal be concluded.

Exhibit "1" for EP-1.1(PW)

Winnipeg

RECEIVED
CITY CLERKS
WINNIPEG

Planning, Property & Development Department • Service de l'urbanisme, des biens et de l'aménagement

Development and Inspections Division• Division de l'aménagement et des inspections
Inspections • Inspections

7 APR 16 A10:30

In reply please refer to: Martin Grady

(204) 986-5147
Fax / Téléc. : (204) 942-2008

April 12, 2007

Levene Tadman Gutkin Golub
700- 330 St. Mary Avenue.
Winnipeg, MB
R3C 3Z5

Dear Mr. Golub

RE: PROPOSAL TO SUBDIVIDE
2689 MCPHILLIPS

With reference to your request to subdivide land at the above referenced location, please be advised that the proposal is contrary to Section 3B-08 of Plan Winnipeg as a full range of municipal services is not currently available to service the development.

Consequently, any application to subdivide the subject property will be refused without a hearing pursuant to Section 275(2)(a) of the City of Winnipeg Charter.

You may appeal this decision by submitting a letter to the Clerk of the Executive Policy Committee at the following address:

City Clerks Department
Main Floor Council Building
510 Main St.
Winnipeg, MB
R3B 1B9

Attention: Jo-Ann Park
Clerk, Executive Policy Committee
Phone: 986-3157

Yours truly,

Martin Grady
Zoning and Permits Administrator

Embrace the Spirit • Vivez l'esprit

Exhibit "2" for EP-1.1(PW)

LEVENE TADMAN GUTKIN GOLUB LLP

Barristers and Solicitors

700 - 330 St. Mary Avenue, Winnipeg Manitoba R3C 3Z5
Phone 204-957-0520 / Fax 204-957-1696
Website: www.ltgg.ca

David C. Golub
Reply 204 957-6414
dgolub@ltgg.ca

File No. 72296

May 3, 2007

City Clerks Department
Main Floor Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Attention: Jo-Ann Park
Clerk, Executive Policy Committee

RECEIVED
CITY CLERKS
WINNIPEG
7 MAY -4 A9:46

Dear Sirs:

RE: PROPOSAL TO SUBDIVIDE
2689 McPHILLIPS STREET, WINNIPEG, MANITOBA

We are the solicitors for Marilyn Bondar, one of the proposed Executors of the Estate of the late Nettie Bondar, the registered owner of 2689 McPhillips Street, Winnipeg, MB (the "Property"). On April 2, 2007 we made an application for subdivision of the Property to the Planning Property and Development Department. On April 12, 2007 we received a refusal of our application pursuant to Section 275(2)(a) of the City of Winnipeg Charter. It is that refusal from which we now submit our appeal.

The Property is a 20+ acre site with a single family dwelling located thereon. The late Nettie Bondar lived in the dwelling with our client Ms. Marilyn Bondar. The Last Will and Testament of Nettie Bondar (a copy of which is enclosed), and in particular in Paragraph 3 (e), called for the conveyance or the transfer of the house and properties used as the principal residence of the late Nettie Bondar; the principal residence being defined as the house and one acre of surrounding land.

We have consulted with Mr. Michael Robinson, City Planner, who advises that the Property is a pre-existing non-conforming site, and that the current zoning for the area is 40 acres. We enclose for your review a sketch of the proposed subdivision indicating the one-acre site together with principal residence and surrounding buildings. We also include a copy of the Surveyor's Building Location Certificate prepared by Barnes & Duncan Land Surveyors. The Property is comprised of 4 separate titles, which we believe can be transferred out to third parties at any time (without necessarily being a buildable site at this time).

We met with Ms. Michelle Richard, Senior Planner, in order to discuss the possibility of a Plan Winnipeg Amendment, or the filing of a secondary plan for the area. She advised that there is a current review of Plan Winnipeg being undertaken at this time but will take some time to complete. In our meeting with Ms. Richard, we discussed the possibility of consolidating the remaining land into one legal title in exchange for being granted the subdivision approval for the one-acre site. We were advised that the possibility of exercising discretion in this area exists if there are separate lots of record. However, upon meeting with Lynne Payette at the Zoning Department, we are advised that the Property is only one lot of record.

In order to give effect to the wishes of the Testator, we are seeking the approval of the subdivision of the Property in order to separate out the one-acre site from the remainder of the parcel. Ms. Bondar is willing to recommend to the Estate consolidating the remaining parcels into one title.

In order to assist in your review of this matter, we enclose herewith the following:

1. The Last Will and Testament of Nettie Bondar
2. Proposed subdivision sketch
3. Building Location Certificate prepared by Barnes & Duncan Land Surveyors
4. Title searches for the Property

We look forward to your response and are available for any questions or concerns you may have in this regard.

Yours truly,

LEVENE TADMAN GUTKIN GOLUB LLP
Per:

DAVID C. GOLUB
DCG/hb
Enclosures

DATE: 2005/08/22 TITLE SEARCH PASHBAR
TSTL (1 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 01
TITLE NUMBER..... 1775088 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2001/01/15
COMPLETION DATE.... 2001/01/22 CONSOLIDATION..... NO

LEGAL DESCRIPTION

NADEZDA BONDAR
OF WINNIPEG IN MANITOBA

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES
RECORDED HEREON, IN THE FOLLOWING DESCRIBED LAND:

ALL THAT PORTION OF RL 24 PARISH OF KILDONAN LYING BETWEEN TWO LINES DRAWN AT RIGHT ANGLES TO THE NORTHERN LIMIT OF SAID LOT FROM POINTS IN THE SAME DISTANT ELY THEREON 652.41 FEET AND 1322.97, RESPECTIVELY, FROM THE NW CORNER THEREOF, EXCEPTING THEREOUT:
FIRSTLY: THE MOST SLY 21.12 FEET IN WIDTH THEREOF, AND
SECONDLY: ALL THAT PORTION THEREOF TAKEN FOR A PUBLIC ROAD AND ADDITIONAL LAND AS SAME IS SHOWN ON A PLAN REGISTERED AS NO. 13147 WLTO

TX: _____
DA: _____

DATE: 2005/08/22 TITLE SEARCH PASHBAR
TSTC (2 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 01
TITLE NUMBER..... 1775088 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2001/01/15

	REGISTRATION NUMBER	EFFECT ON TITLE	CHARGES AFFECTING INSTRUMENT	INSTRUMENT TYPE	STATUS	NOTES
1	2458015	ACTIVE		CAV	ACC	

TX: ____ ____ ENTRY TO DISPLAY
DA: _____ PF6-TSEC
NO MORE CHARGES FOUND FOR THIS TITLE

DATE: 2005/08/22 TITLE SEARCH PASHBAR
TSEC (2 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 1
TITLE NUMBER..... 1775088 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2001/01/15

ACTIVE CHARGES

2458015 ACCEPTED CAVEAT REG'D: 2000/01/25

DESCRIPTION: OFFER TO PURCHASE
FROM/BY: ATHENA HOLDINGS LTD.
TO:
CONSIDERATION: NOTES:

TX: ____ _____ REGISTRATION TO DISPLAY
DA: _____ PF6-TSTC
*** NO MORE ACTIVE CHARGES FOUND FOR THIS TITLE ***

```
DATE: 2005/08/22              TITLE SEARCH                              PASHBAR
TSTS (3 OF 9)          TITLE DISPLAY - WINNIPEG
TITLE NUMBER.........    1775088          TITLE STATUS........ ACCEPTED
REGISTRATION DATE..... 2001/01/15
COMPLETION DATE....... 2001/01/22          CONSOLIDATION....... NO

                          SUMMARY OF TITLE DATA

                                           SELECT ONE OF THE FOLLOWING:
TITLE NOTES.............                                 MORE?   NO  .... _
ORIGINATING REG. NUMBER..    2563727       .............  MORE?   NO  .... _
FROM TITLE NUMBER........ H37288           TYPE.... ALL   MORE?   NO  .... _
RPA/CROWN GRANT NUMBER...                  .............  MORE?   NO  .... _

NAME FOR SERVICE......... NADEZDA BONDAR                  MORE?   NO  .... _
  ADDRESS.................. S.S.#1 GRP 3 BOX 1
                          WINNIPEG MB

  POSTAL CODE.............            EFFECT... ACTIVE
DUPLICATE PRODUCED ? .... HOLD FOR PROD OF DUPL CT NO(S)   MORE? * YES .... _
  ISSUED DATE............ 2001/01/23
TX: ____                                   NEXT TITLE NUMBER... ___________
DA: ___________________________________
SCREEN INCOMPLETE - SELECT AS INDICATED ABOVE
```

DATE: 2005/08/22 TITLE SEARCH PASHBAR
TSTD (9 OF 9) TITLE DISPLAY - WINNIPEG
TITLE NUMBER..... 1775088 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2001/01/15

DUPLICATE PRODUCED FOR..... HOLD FOR PROD OF DUPL CT NO(S) ON 2001/01/23
ADDRESS..... H37288

POSTAL CODE.....

LAST UPDATED BY..... W.KNIGHT
LAST UPDATED ON..... 2001/01/22

ACCEPTED THIS 15TH DAY OF JANUARY, 2001
BY W.KNIGHT FOR THE DISTRICT REGISTRAR OF
THE LAND TITLES DISTRICT OF WINNIPEG

NEXT TITLE NUMBER... _____

TX: ____
DA: _____

AUG 2 3 2005

Cert. No. B 37291

MANITOBA

Certificate of Title

UNDER THE REAL PROPERTY ACT

NADEZDA BONDAR, of the City of Winnipeg, in Manitoba, widow of

Samuel Bondar, late of the same place, Retired Farmer, Deceased,

is

All that portion of the North half of River Lot Twenty-five of the Parish of Kildonan, in Manitoba, which lies to the West of the Western limit of Sinclair Street, excepting thereout, Firstly: those portions bounded as follows: On the South by the Southern limit of said North half of Lot Twenty-five, on the North by a line drawn North of, parallel with and perpendicularly distant One Hundred and One feet from the Southern limit, and on the East and West by two lines drawn West of and parallel with the said Western limit of Sinclair Street and distant therefrom Seven Hundred and Twenty-five feet and Nine Hundred and Seventy-five feet, respectively, on the course of the said Southern limit, Secondly: that portion thereof bounded as follows: On the North and South by two lines drawn South of, parallel with and perpendicularly distant Eight feet, and One Hundred and Nine and Fourteen One-hundredths feet, respectively, from the Northern limit of said Lot Twenty-five, on the West by a line drawn East of, parallel with and distant on the said Northern limit One Hundred and Twenty-seven feet from the Western limit of said lot and on the East by a straight line drawn at right angles to the Northern limit of said lot from a point in the same distant Easterly thereon Three Hundred and Seventy-three and Seventy-three One-hundredths feet from the Western limit of said lot, Thirdly: All that portion of the east Xort Northerly One Hundred and Nine and Fourteen One-hundredths feet in perpendicular width of said River Lot Twenty-five, which lies to the West of a straight line drawn parallel to the Western limit of said River Lot through a point in the Northern limit of said River Lot distant Easterly thereon One Hundred and Eleven feet from the said Western limit, Fourthly: all that portion thereof taken for an extension of McGregor Street and additional land as same are shown on a plan filed in the Winnipeg Land Titles Office as No. 8396, and Fifthly: all that portion thereof taken for a Public Road, as same is shown on a plan filed in the said Office as No. 13147. Subject to a Right-of-Way for all purposes as appurtenant to the land secondly above excepted over, Firstly: all that portion of the most Southerly Sixty feet in width of the most Northerly One Hundred and Sixty-nine and Fourteen One-hundredths feet in width of said Lot Twenty-five, which lies to the West of the production Southerly of the Eastern limit of the land secondly above excepted, Secondly: all that portion bounded as follows: On the East and West by two lines drawn East of, parallel with, and distant on the Northern limit of said Lot One Hundred, and Twenty-seven feet and One Hundred and Eleven feet, respectively, from the Western limit of said lot, on the North by the Northern limit of said lot, on the South by a line drawn South of, parallel with, and distant perpendicularly One Hundred and Nine and Fourteen One-hundredths feet from the said Northern limit, Thirdly: the most Northerly Eight feet in width of said lot which lies between the production Northerly of the Eastern and Western limits of the land secondly above excepted, which said Sinclair Street is shown on a plan of survey of part of the North half of said lot registered in the Winnipeg Land Titles Office as No. 1205.

666

Seventh

- three

January

ADDRESS FOR SERVICE
551 GRP 3 Box 1
RR2 PG MB

Form No. [illegible]

From No.		Transfer	Application	
J.R. HNIDAN	E 13546	83-2053		
BOX 63	REGISTERED			
Mortgage for $.....	The day of 19 at	TO	Deputy or Assistant District Registrar	No.
Mortgage for $.....	The day of 19 at	TO	Deputy or Assistant District Registrar	No.
Mortgage for $.....	The day of 19 at	TO	Deputy or Assistant District Registrar	No.
Mortgage for $.....	The day of 19 at	TO	Deputy or Assistant District Registrar	No.
Mortgage for $.....	The day of 19 at	TO	Deputy or Assistant District Registrar	No.

NOTICE OF INTENDED EXPROPRIATION
No. 110258/
FILED Dec 12/88 LAPSES June 13/89
EFFECTS pt [illegible] Street
SEE COMPUTERIZED DAILY RECORD

No. 2458015 CAVEAT
FILED @
BY 2000,01;25
SEE COMPUTERIZED DAILY RECORD

DECLARATION OF EXPROPRIATION
No. 1141547
FILED Apr. 7/89
EXPROPRIATED pt [illegible] Street (See pl. 23660)
SEE COMPUTERIZED DAILY RECORD

DATE: 2005/08/22 TITLE SEARCH PASHBAR
TSTL (1 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 01
TITLE NUMBER..... 1768750 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2000/12/14
COMPLETION DATE.... 2001/01/04 CONSOLIDATION..... NO

LEGAL DESCRIPTION

NADEZDA BONDAR
OF WINNIPEG, MANITOBA

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES
RECORDED HEREON IN THE FOLLOWING DESCRIBED LAND:

ALL THAT PORTION OF S 1/2 OF RL 25 PARISH OF KILDONAN
WHICH LIES TO THE WEST OF THE WESTERN LIMIT OF SURVEY PLAN 2095 WLTO
EXC FIRSTLY: MCGREGOR STREET PLAN 8396 WLTO
SECONDLY: PUBLIC ROAD AND ADDITIONAL LAND PLAN 13147 WLTO
THIRDLY: MCPHILLIPS STREET PLAN 23660 WLTO

TX: ____
DA: _____

20 to 21 acres
N-75

DATE: '2005/08/22 TITLE SEARCH PASHBAR
TSTC (2 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 01
TITLE NUMBER..... 1768750 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2000/12/14

	REGISTRATION NUMBER	EFFECT ON TITLE	CHARGES AFFECTING INSTRUMENT	INSTRUMENT TYPE	STATUS	NOTES
1	2458015	ACTIVE		CAV	ACC	

TX: ____ ____ ENTRY TO DISPLAY
DA: _____ PF6-TSEC
NO MORE CHARGES FOUND FOR THIS TITLE

DATE: 2005/08/22 TITLE SEARCH PASHBAR
TSEC (2 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 1
TITLE NUMBER..... 1768750 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2000/12/14

ACTIVE CHARGES

2458015 ACCEPTED CAVEAT REG'D: 2000/01/25
DESCRIPTION: OFFER TO PURCHASE
FROM/BY: ATHENA HOLDINGS LTD.
TO:
CONSIDERATION: NOTES:

TX: ____ _____ REGISTRATION TO DISPLAY
DA: _____ PF6-TSTC
*** NO MORE ACTIVE CHARGES FOUND FOR THIS TITLE ***

```
DATE: 2005/08/22              TITLE SEARCH                              PASHBAR
TSTS (3 OF 9)          TITLE DISPLAY - WINNIPEG
TITLE NUMBER.....     1768750          TITLE STATUS..... ACCEPTED
REGISTRATION DATE..... 2000/12/14
COMPLETION DATE....... 2001/01/04      CONSOLIDATION..... NO

                        SUMMARY OF TITLE DATA

                                       SELECT ONE OF THE FOLLOWING:
TITLE NOTES.............                          MORE?   NO  .... _
ORIGINATING REG. NUMBER..   2557218    .............  MORE?   NO  .... _
FROM TITLE NUMBER........ H37289       TYPE.... PART  MORE?   NO  .... _
RPA/CROWN GRANT NUMBER...              .............  MORE?   NO  .... _

NAME FOR SERVICE..... NADEZDA BONDAR                  MORE?   NO  .... _
  ADDRESS............ BOX 1  GRP 3  RR 1
                      WINNIPEG MB

  POSTAL CODE.....              EFFECT... ACTIVE
DUPLICATE PRODUCED ? .... HOLD FOR PROD OF DUPL CT NO(S)   MORE? * YES .... _
  ISSUED DATE..... 2001/01/08
TX: ____                               NEXT TITLE NUMBER... ___________
DA: _____________________________
SCREEN INCOMPLETE - SELECT AS INDICATED ABOVE
```

DATE:: 2005/08/22 TITLE SEARCH PASHBAR
TSTD (9 OF 9) TITLE DISPLAY - WINNIPEG
TITLE NUMBER..... 1768750 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2000/12/14

DUPLICATE PRODUCED FOR..... HOLD FOR PROD OF DUPL CT NO(S) ON 2001/01/08
ADDRESS..... H37289

POSTAL CODE.....

LAST UPDATED BY..... D.FLETT
LAST UPDATED ON..... 2000/12/22

ACCEPTED THIS 14TH DAY OF DECEMBER, 2000
BY A.MAPES FOR THE DISTRICT REGISTRAR OF
THE LAND TITLES DISTRICT OF WINNIPEG

NEXT TITLE NUMBER... _____

TX: ____
DA: _____

DATE: 2005/08/22 TITLE SEARCH PASHBAR
TSTL (1 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 01
TITLE NUMBER..... 1775089 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2001/01/15
COMPLETION DATE.... 2001/01/22 CONSOLIDATION..... NO

LEGAL DESCRIPTION

NADEZDA BONDAR
OF WINNIPEG IN MANITOBA

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES
RECORDED HEREON, IN THE FOLLOWING DESCRIBED LAND:

ALL THAT PORTION OF THE MOST SLY 101 FEET IN WIDTH OF THE N 1/2 OF RL 25 PARISH OF KILDONAN LYING BETWEEN TWO LINES DRAWN WEST OF, PARALLEL WITH AND DISTANT WLY ALONG THE SOUTHERN LIMIT OF SAID N 1/2, 725 FEET AND 975 FEET RESPECTIVELY, FROM THE WESTERN LIMIT OF SINCLAIR STREET AS SAID STREET IS SHOWN ON PLAN REGISTERED AS NO. 1205 WLTO.

TX: ____
DA: _____

DATE: 2005/08/22 TITLE SEARCH PASHBAR
TSTC (2 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 01
TITLE NUMBER..... 1775089 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2001/01/15

	REGISTRATION NUMBER	EFFECT ON TITLE	CHARGES AFFECTING INSTRUMENT	INSTRUMENT TYPE	INSTRUMENT STATUS	NOTES
1	2458015	ACTIVE		CAV	ACC	

TX: ____ ____ ENTRY TO DISPLAY
DA: _____ PF6-TSEC
NO MORE CHARGES FOUND FOR THIS TITLE

DATE; 2005/08/22 TITLE SEARCH PASHBAR
TSEC (2 OF 9) TITLE DISPLAY - WINNIPEG PAGE: 1
TITLE NUMBER..... 1775089 TITLE STATUS..... ACCEPTED
REGISTRATION DATE.. 2001/01/15

ACTIVE CHARGES

2458015 ACCEPTED CAVEAT REG'D: 2000/01/25
DESCRIPTION: OFFER TO PURCHASE
FROM/BY: ATHENA HOLDINGS LTD.
TO:
CONSIDERATION: NOTES:

TX: _____ _____ REGISTRATION TO DISPLAY
DA: _____ PF6-TSTC
*** NO MORE ACTIVE CHARGES FOUND FOR THIS TITLE ***

```
DATE: 2005/08/22                TITLE SEARCH                              PASHBAR
TSTS (3 OF 9)           TITLE DISPLAY - WINNIPEG
TITLE NUMBER.....     1775089          TITLE STATUS..... ACCEPTED
REGISTRATION DATE..... 2001/01/15
COMPLETION DATE....... 2001/01/22      CONSOLIDATION..... NO

                          SUMMARY OF TITLE DATA

                                       SELECT ONE OF THE FOLLOWING:
TITLE NOTES.....                                  MORE?   NO  .... _
ORIGINATING REG. NUMBER..    2563727   .....      MORE?   NO  .... _
FROM TITLE NUMBER..... H37290          TYPE.... ALL MORE?  NO  .... _
RPA/CROWN GRANT NUMBER...              .....      MORE?   NO  .... _

NAME FOR SERVICE..... NADEZDA BONDAR              MORE?   NO  .... _
  ADDRESS..... BOX 1 SS 1 GRP 3
               WINNIPEG MB

  POSTAL CODE.....          EFFECT... ACTIVE
DUPLICATE PRODUCED ? .... HOLD FOR PROD OF DUPL CT NO(S)  MORE? * YES .... _
  ISSUED DATE..... 2001/01/23
TX: ____                               NEXT TITLE NUMBER... ___________
DA: ___________________________________
SCREEN INCOMPLETE - SELECT AS INDICATED ABOVE
```

Barnes & Duncan
Land Surveying & Geomatics

298 Fort Street
Winnipeg, Manitoba
R3C 1E5

Phone: 204-284-5959
204-943-0546
800-665-6609
Fax: 204-452-7877
204-947-2918
Email: Christian@BarnesDuncan.com

Christian P. Korell, M.L.S., B.Sc.Eng.
Austin E. Atkinson, M.L.S.
Donald P. Sklach, M.L.S.
Chris E. Pollett, B.Sc.Eng., P.Eng.

Our File: 05-1292
Our Dwg: 05-1292-BLC.dwg
FB: 863-9

Surveyor's Building Location Certificate

October 21, 2005

Levene Tadman Gutkin Golub
Barristers and Solicitors
700-330 St. Mary Avenue
Winnipeg, Manitoba
R3C 3Z5

Attention: Mr. David Golub

Dear Sir:

Re: #2689 McPhillips Street, Winnipeg, Manitoba

Your File: 72256

Registered Owner: Nadezda Bondar

Certificates of Title: 1768750, 1775088, 1775089 and 2117895

Legal Description:

CT 1768750: All that portion of S1/2 of RL 25 Parish of Kildonan which lies to the West of the Western limit of Survey Plan 2095 WLTO
Exc Firstly: McGregor Street Plan 8396 WLTO
Secondly: Public Road and Additional Land Plan 13147 WLTO
Thirdly: McPhillips Street Plan 23660 WLTO.

CT 1775088: All that portion of RL 24 Parish of Kildonan lying between two lines drawn at right angles to the Northern limit of said Lot from points in the same distant Ely thereon 652.41 feet and 1322.97, respectively, from the NW corner thereof, Excepting thereout:
Firstly: The most Sly 21.12 feet in width thereof, and
Secondly: All that portion thereof taken for a Public Road and Additional Land as same is shown on a Plan registered as No. 13147 WLTO.

CT 1775089: All that portion of the most Sly 101 feet in width of the N1/2 of RL 25 Parish of Kildonan lying between two lines drawn West of, parallel with and distant Wly along the Southern limit of said N1/2, 725 feet and 975 feet respectively, from the Western limit of Sinclair Street as said street is shown on Plan registered as No. 1205 WLTO.

CT 2117895: All that portion of the N1/2 of RL 25 Parish of Kildonan, which lies to the West of the Western limit of Sinclair Street Plan 1205 WLTO
Exc Firstly: Those portions bounded as follows: On the South by the Southern limit of said N1/2 of Lot 25, on the North by a line drawn North of, parallel with and perp distant 101feet from the Southern limit, and on the East and West by two lines drawn West of and parallel with the said Western limit of Sinclair Street and distant therefrom 725 feet and 975 feet, on the course of the said Southern limit
Secondly: That portion bounded as follows: On the North and South by two lines drawn South of, parallel with and perp distant 8 feet, and 109.14 feet, respectively, from the Northern limit of said Lot 25, on the West by a line drawn East of, parallel with and distant on the said Northern limit 127 feet from the Western limit of said Lot and on the East by a straight line drawn at right angles to the Northern limit of said Lot from a point in the same distant Ely thereon 373.73 feet from the Western limit of said Lot

... cont'd

... cont'd

Thirdly: All that portion of the Nly 109.14 feet perp of said RL 25, which lies to the West of a straight line drawn parallel to the Western limit of said RL through a point in the Northern limit of said RL distant Ely thereon 111 feet from the said Western limit
Fourthly: All that portion taken for an extension of McGregor Street and Additional Land Plan 8396 WLTO
Fifthly: Road Plan 13147 WLTO, and
Sixthly: McPhillips Steet Plan 23660 WLTO

Subject to a Right-of-Way for all purposes as appurtenant to the land Secondly above excepted, over
Firstly: all that portion of the Sly 60 feet of the Nly 169.14 feet of said Lot 25, which lies to the West of the production Sly of the Eastern limit of the land Secondly above excepted,
Secondly: All that portion bounded as follows: On the East and West by two lines drawn East of, parallel with, and distant on the Northern limit of said Lot, 127 feet and 111 feet respectively, from the Western limit of said Lot, on the North by the Northern limit of said Lot, on the South by a line drawn South of, parallel with and perp distant 109.14 feet from the said Northern limit,
Thirdly: Nly 8 feet of said Lot which lies between the production Nly of the Eastern and Western limits of the land Secondly above excepted

which said Sinclair Street is shown on a plan of survey of part of the N1/2 of said Lot registered as 1205 WLTO.

Encumbrances:

Instrument No. 2458015 is registered against the above Certificates of Title No.s 1768750, 1775088, and 1775089

Encumbrances noted herein are provided for information only and have not been investigated as to their intent or extent.

As requested, we have made the necessary measurements to determine the position of a one storey stucco dwelling, numbered 2689 on the east side of McPhillips Street, in the City of Winnipeg, and 5 sheds, a shed/barn, a barn, and 2 frame garages, and find that the said buildings, above ground level, are contained entirely within the limits of the above described land.

There are no encroachments above ground level onto the above described land by buildings from adjoining properties, except for 5 metal clad sheds which encroach onto Right-of-Way (See Sketch Page 3 of 3).

PLEASE NOTE THAT NO SURVEY MONUMENTS WERE REQUESTED TO BE INSTALLED AT PROPERTY CORNERS.

This survey was made on the 28th day of September, 2005.

The Certificates of Title were searched between the 22nd day of August and the 21st day of October , 2005.

SEE SKETCHES PAGE 2 and 3

Signed & Sealed

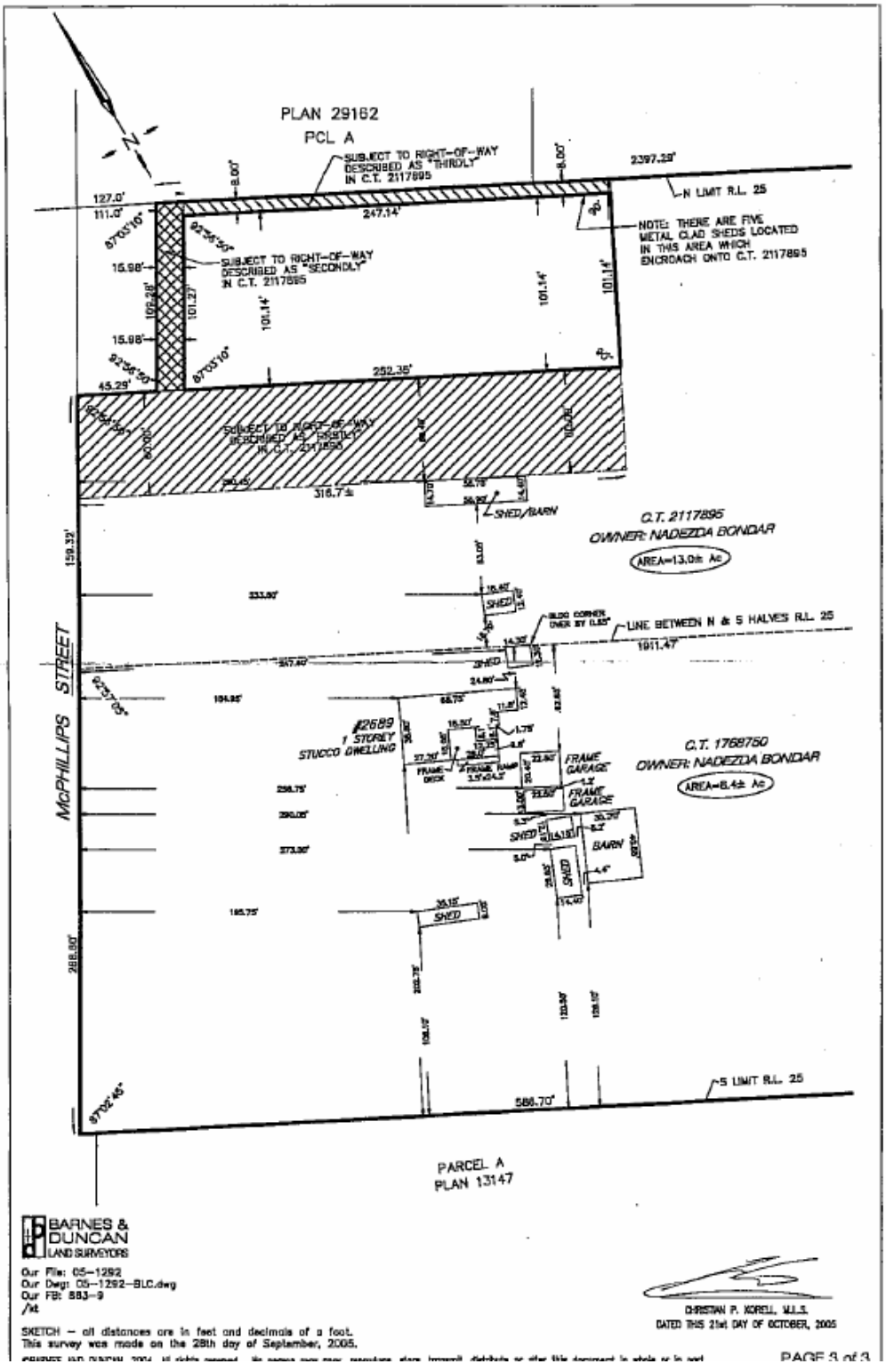


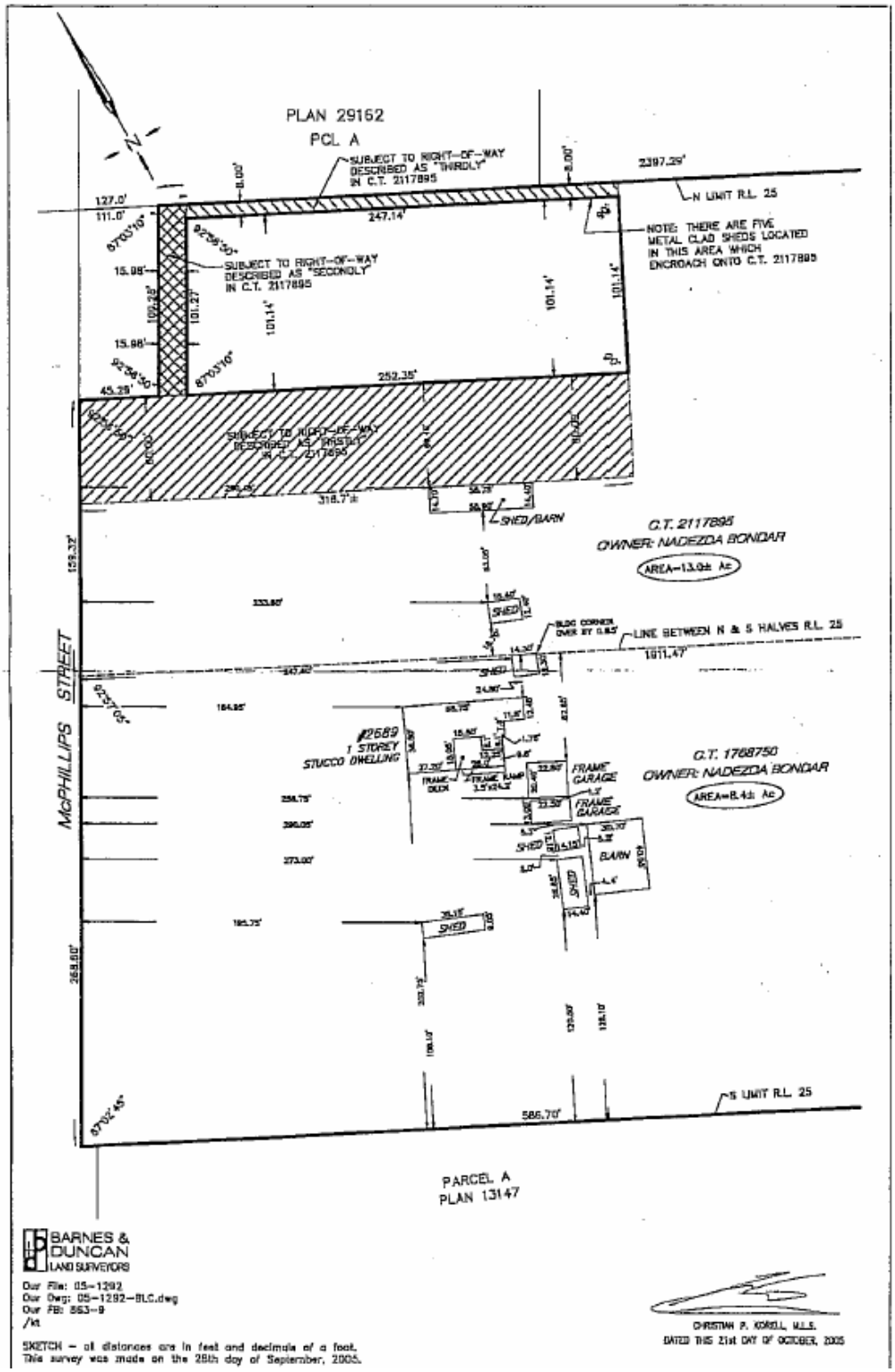
Christian P. Korell, M.L.S.

SKETCH - all distances are in feet and decimals of a foot.

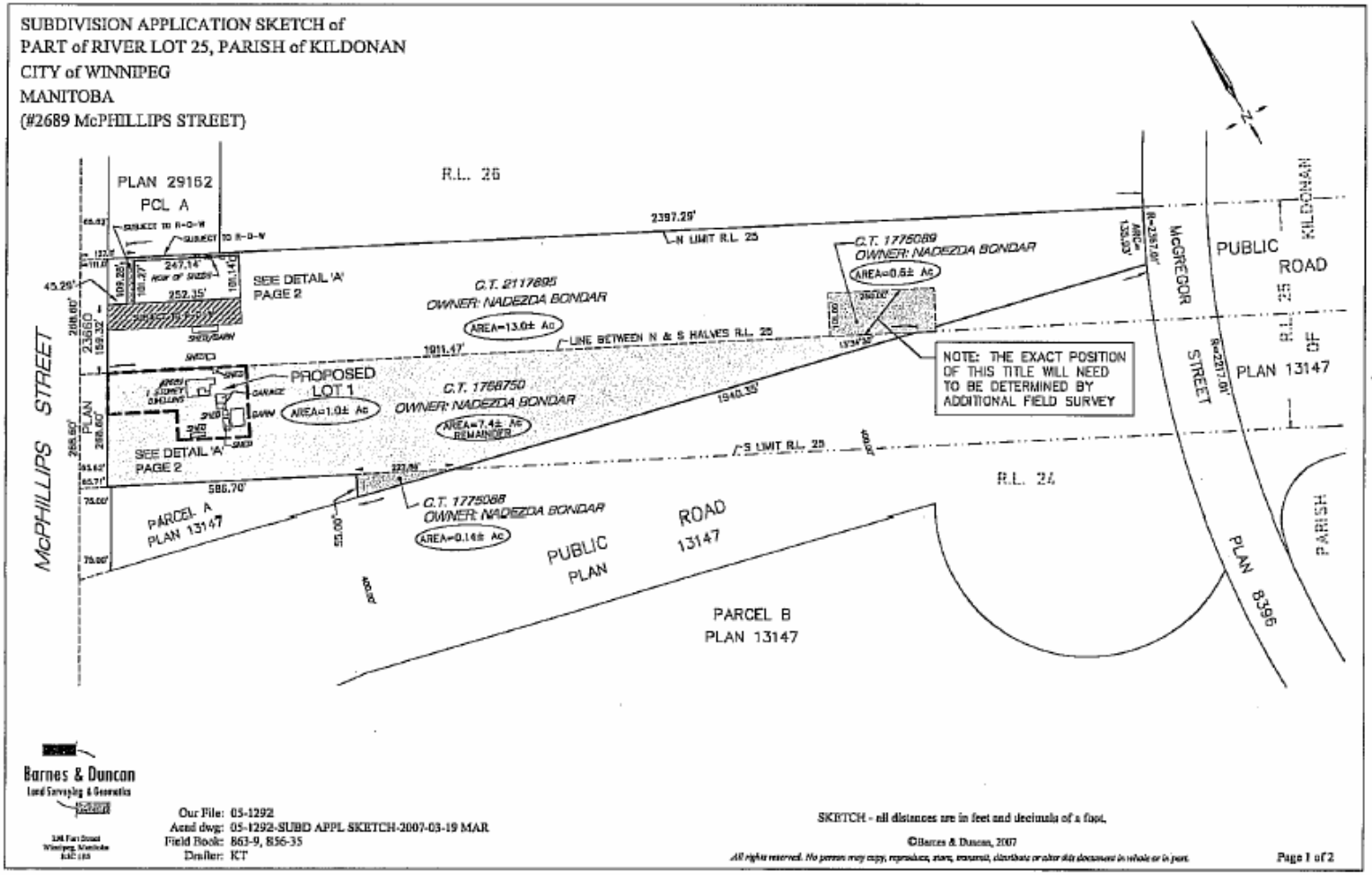
©Barnes & Duncan, 2005
All rights reserved. No person may copy, reproduce, store, transmit, distribute or alter this document in whole or in part.

/kt


PLAN 29162
PCL A
SUBJECT TO RIGHT-OF-WAY DESCRIBED AS "THIRDLY" IN C.T. 2117895
SUBJECT TO RIGHT-OF-WAY DESCRIBED AS "SECONDLY" IN C.T. 2117895
SUBJECT TO RIGHT-OF-WAY DESCRIBED AS "FIRSTLY" IN C.T. 2117895
N LIMIT R.L. 25
NOTE: THERE ARE FIVE METAL CLAD SHEDS LOCATED IN THIS AREA WHICH ENCROACH ONTO C.T. 2117895
2397.39'
247.14'
252.35'
316.7±
SHED/BARN
C.T. 2117895
OWNER: NADEZDA BONDAR
AREA=13.0± Ac
LINE BETWEEN N & S HALVES R.L. 25
1911.47'
McPHILLIPS STREET
#2689
1 STOREY
STUCCO DWELLING
FRAME GARAGE
FRAME GARAGE
SHED
BARN
SHED
SHED
C.T. 1768750
OWNER: NADEZDA BONDAR
AREA=8.4± Ac
S LIMIT R.L. 25
586.70'
PARCEL A
PLAN 13147
BARNES & DUNCAN
LAND SURVEYORS
Our File: 05-1292
Our Dwg: 05-1292-BLC.dwg
Our FB: 883-9
/kt
SKETCH - all distances are in feet and decimals of a foot.
This survey was made on the 28th day of September, 2005.
CHRISTIAN P. KORELL, M.L.S.
DATED THIS 21st DAY OF OCTOBER, 2005
PAGE 3 of 3


PLAN 29162
PCL A
SUBJECT TO RIGHT-OF-WAY DESCRIBED AS "THIRDLY" IN C.T. 2117895
SUBJECT TO RIGHT-OF-WAY DESCRIBED AS "SECONDLY" IN C.T. 2117895
NOTE: THERE ARE FIVE METAL CLAD SHEDS LOCATED IN THIS AREA WHICH ENCROACH ONTO C.T. 2117895
N LIMIT R.L. 25
SHED/BARN
C.T. 2117895
OWNER: NADEZDA BONDAR
AREA=13.0± Ac
LINE BETWEEN N & S HALVES R.L. 25
#2689
1 STOREY
STUCCO DWELLING
FRAME GARAGE
C.T. 1768750
OWNER: NADEZDA BONDAR
AREA=8.4± Ac
BARN
SHED
McPHILLIPS STREET
S LIMIT R.L. 25
PARCEL A
PLAN 13147
BARNES & DUNCAN
LAND SURVEYORS
Our File: 05-1292
Our Dwg: 05-1292-BLC.dwg
Our FB: 863-9
/kt
SKETCH – all distances are in feet and decimals of a foot.
This survey was made on the 28th day of September, 2005.
CHRISTIAN P. KORELL, M.L.S.
DATED THIS 21st DAY OF OCTOBER, 2005

SUBDIVISION APPLICATION SKETCH of
PART of RIVER LOT 25, PARISH of KILDONAN
CITY of WINNIPEG
MANITOBA
(#2689 McPHILLIPS STREET)



Barnes & Duncan
Land Surveying & Geomatics

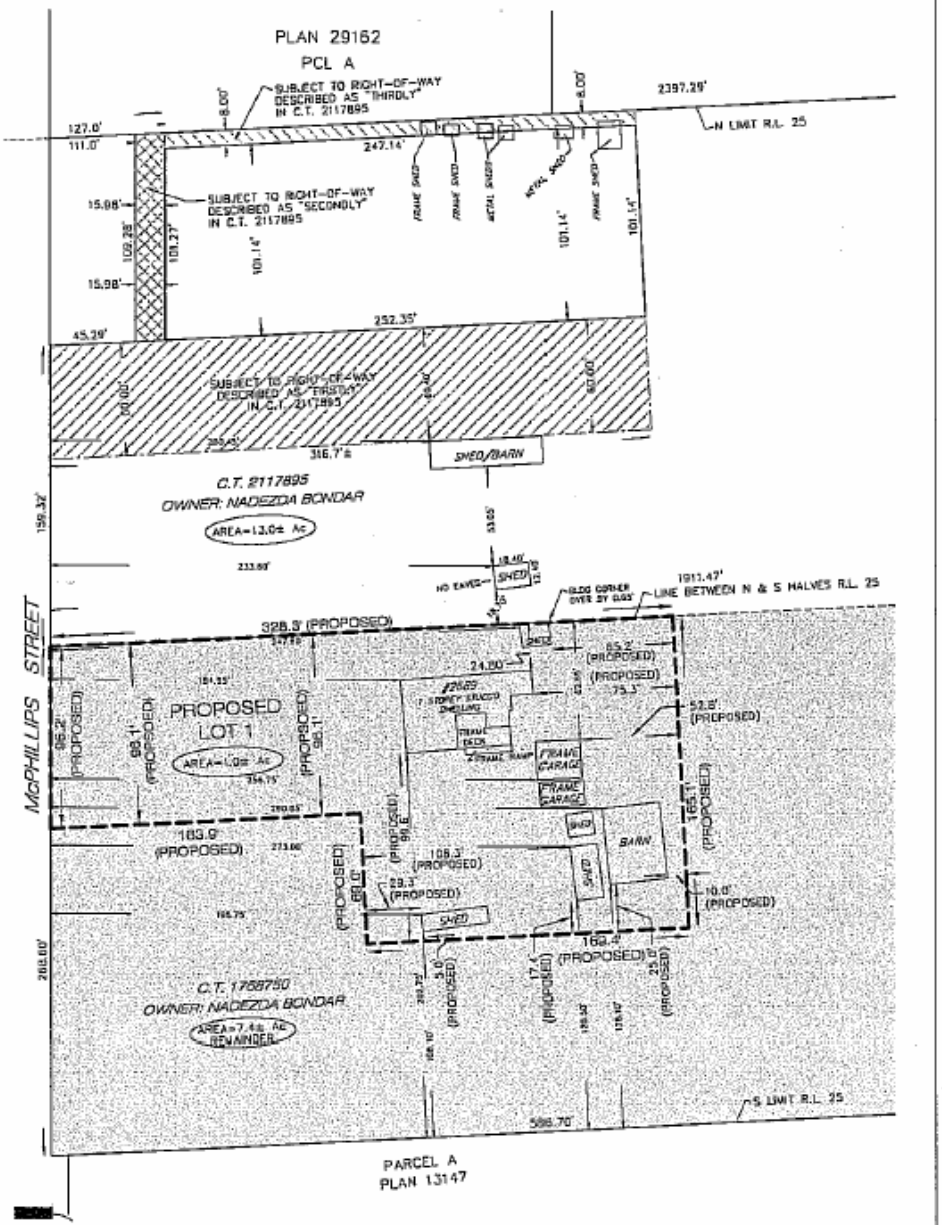
Our File: 05-1292
Acad dwg: 05-1292-SUBD APPL SKETCH-2007-03-19 MAR
Field Book: 863-9, 856-35
Drafter: KT

SKETCH - all distances are in feet and decimals of a foot.

©Barnes & Duncan, 2007
All rights reserved. No person may copy, reproduce, store, transmit, distribute or alter this document in whole or in part.

SUBDIVISION APPLICATION SKETCH of
PART of RIVER LOT 25, PARISH of KILDONAN
CITY of WINNIPEG
MANITOBA
(#2689 McPHILLIPS STREET)

DETAIL 'A'
as SHOWN ON PAGE 1 of 2



Barnes & Duncan
Land Surveying & Geomatics
294 Portage Avenue
Winnipeg, Manitoba
R3C 0B9

Our File: 05-1292
Acad dwg: 05-1292-SUBD APPL SKETCH-2007-03-19 MAR
Field Book: 863-9, 856-35
Drafter: KT

Page 2 of 2

SKETCH - all distances are in feet and decimals of a foot.

©Barnes & Duncan, 2007
All rights reserved. No person may copy, reproduce, store, transmit, distribute or alter this document in whole or in part.

Exhibit "3" for EP-1.1(PW)



City Clerk's Department • Bureau du greffier

REGISTERED MAIL RT 157 321 645 CA

May 11, 2007

File EP-1.1(PW)

Levene Tadman Gutkin Golub
Barristers and Solicitors
700 – 330 St. Mary Avenue
Winnipeg, Manitoba
R3C 3Z5

Attention: Mr. David C. Golub

Appeal under Plan Winnipeg By-law No. 7630/2000 - 2689 McPhillips Street

This will acknowledge receipt of your communication dated May 3, 2007, appealing the decision of the Zoning and Permits Administrator, Development and Inspections Division, Planning, Property and Development Department dated April 12, 2007, for the premises located at 2689 McPhillips Street.

Please be advised that the appeal will be heard by the Executive Policy Committee at its meeting on Wednesday, June 13, 2007, at 9:00 a.m. in the Council Building, 510 Main Street.

The purpose of the appeal hearing is to allow interested persons to make submissions, ask questions or register objections with respect to this matter.

Information or documents concerning this matter and a description of the procedure to be followed at the hearing are available for inspection in the City Clerk's Department, 510 Main Street or can be accessed on the Internet site: www.winnipeg.ca/CLKDMIS.

JPark

Jo-Ann Park
Clerk of the Executive Policy Committee
Telephone 986-3732

c. Mr. J. Paterson, Acting Director of Planning, Property and Development
Mr. M. Grady, Zoning and Permits Administrator, Planning, Property and Development Department
Ms. M. Richard, Senior Planner (Plan Winnipeg), Planning, Property and Development Department

Exhibit "4" for EP-1.1(PW)

RE: Plan Winnipeg appeal 2689 McPhillips Street – Rejection of an application for a proposed subdivision of land into parcels less than 16 hectares (40 acres) without an approved secondary plan.

FOR SUBMISSION TO:	**Executive Policy Committee**
ORIGINAL REPORT SIGNED BY:	**Jim Paterson, A/Director of Planning, Property and Development**
REPORT DATE:	**June 8, 2007**

RECOMMENDATION:

That the Executive Policy Committee concur with the interpretation of the Administration that an application to subdivide the subject property is contrary to Plan Winnipeg and should be rejected in accordance with Section 275(2) of the City of Winnipeg Charter.

Report Summary

Key Issues:

- The Administration rejected a plan of subdivision for the subject property because it is contrary to Plan Winnipeg Policy 3B – Regulate Land Uses in Rural Areas

- There is no Council adopted secondary plan for this area.

- The subject property is not serviced.

- The following considerations reflect potential outcomes of subdivisions in Rural Policy Area:
  - Under-serviced homes in an urban area often create pressures later to provide a full standard of municipal infrastructure on an unplanned basis.
  - Piecemeal development negatively impacts the economic viability of the installation of infrastructure in the future.
  - The incremental and unplanned subdivision of land can preclude broader development objectives, thus delaying the municipal revenues to be realized by complete development at an urban standard.
  - It creates an inconsistent standard of development within the built environment.
  - By approving even a minor subdivision, a precedent is set for similar development in Rural Policy Area.

Implications of the Recommendation(s):

General Implications

( ) None

(x) For the organization overall and/or for other departments

(x) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s):

The recommendation provides clear and consistent support for Plan Winnipeg policies concerning land use in Rural Policy Area

Policy Implications

() No

(X) Yes

Comment(s): The recommendation supports Plan Winnipeg policies.

Regulatory Implications

(x) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

The recommendation rejects an application that is contrary to the City of Winnipeg Charter. Section 235 states the following:

"The passing of a Plan Winnipeg by-law or a secondary plan by-law does not require council, any person, or any department or agency of the government, to undertake a proposal contained in the by-law, but public works, undertakings and development in the city must be consistent with Plan Winnipeg or any secondary plan."

Environmental Implications

(x) No

( ) Yes

Comment(s):

Human Resources Implications

(x) No

( ) Yes

Comment(s):

Financial Implications

(x) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):

Report

REASON FOR THE REPORT:

The Executive Policy Committee is responsible for hearing any appeal of an Administration decision concerning Plan Winnipeg.

DISCUSSION:

Background
An application was received to subdivide 2689 McPhillips Street into two parcels, each measuring less than 16 hectares (40 acres). The Administration rejected this application on the grounds that it is contrary to Plan Winnipeg 2020.

Section 3B-08 Regulate Land Uses in Rural Areas states that *The City shall regulate land uses within locations designated as Rural on Policy Plate A by:*

i) Designating agriculture and related support functions as the principle use in rural areas through the requirement of a minimum site area of 16 hectares (40 acres) or such other minimum size as would be allowed under an applicable secondary plan and subject to minimal variances

ii) Allowing the subdivision of land into parcels less than 16 hectares (40 acres) only through the preparation and adoption of a secondary plan

Under Section 189 (1) of the City of Winnipeg Charter, the applicant may appeal an administrative decision to reject an application. An appeal hearing has been set for June 13th, 2007. The appeal focuses on whether the Administration correctly interpreted Plan Winnipeg when this application was rejected.

Nature of the application:
The Property is a 22.14 acre site with a single-family dwelling located thereon. The Property is a lot of record, which means that it has a current non-conforming right to exist, notwithstanding the present zoning requirement for 40 acre lots.

However, at this time, the applicant wishes to subdivide the Property for the purpose of creating two zoning parcels.

a) Parcel 1 (±1 acre) would include the principle residence and one acre of surrounding land

b) Parcel 2 (±21 acres) would include the balance of the lands

The applicant is making this request in order to give effect to the last will and testament of the deceased landowner, who wished to bequeath the subject Property to more than one family member.

Policy Implications:
Plan Winnipeg is the primary planning policy document that guides all land use, development and planning matters within the City of Winnipeg.

All versions of Plan Winnipeg (1986, 1993 and 2001) have included policies limiting the subdivision of land within Rural Policy Area.

The possible implications of approving small subdivisions of land in Rural Policy Area which are contrary to Plan Winnipeg are:

- Under-serviced homes in an urban area often create pressures later to provide a full standard of municipal infrastructure on an unplanned basis.
- Piecemeal development negatively impacts the economic viability of the installation of infrastructure in the future.
- The incremental and unplanned subdivision of land can preclude broader development objectives, thus delaying the municipal revenues to be realized by complete development at an urban standard.
- It creates an inconsistent standard of development within the built environment.
- By approving even a minor subdivision, a precedent is set for similar development in Rural Policy Area.

Preparation of a Secondary Plan

Under Plan Winnipeg, the only way this application could proceed is through adoption of a secondary plan, which allows for subdivision of land into parcels less than 40 acres. Since every plan and planning process is unique, the amount of time required to undertake a plan for this area would have to be evaluated in more detail. However, it is fair to say that every secondary plan involves a significant investment of time and resources and should be undertaken only when there is a clear, demonstrated need “to provide greater clarity in the interpretation of policy designations.” (Plan Winnipeg Policy 3A-01)

Conclusion

Plan Winnipeg clearly requires a 40 acre minimum parcel size in Rural Policy Areas, unless a smaller size is permitted under a Secondary Plan. Since no Secondary Plan has been adopted for this area, and since the proposed lot is well below the 40 acre minimum, this subdivision is not supported by Plan Winnipeg.

Financial Impact Statement Date: May 29, 2007

Project Name:

Plan Winnipeg Appeal – 2689 McPhillips Street

The recommendation in this report is that the Executive Policy Committee concur with the interpretation of the Administration that an application to subdivide the subject property is contrary to Plan Winnipeg and should be rejected in accordance with Section 275(2) of the City of Winnipeg Charter. There is no financial impact associated with this recommendation.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Internal Services Department, Legal Services

External Consultation With:
N/A

THIS REPORT SUBMITTED BY:

Department Planning, Property and Development

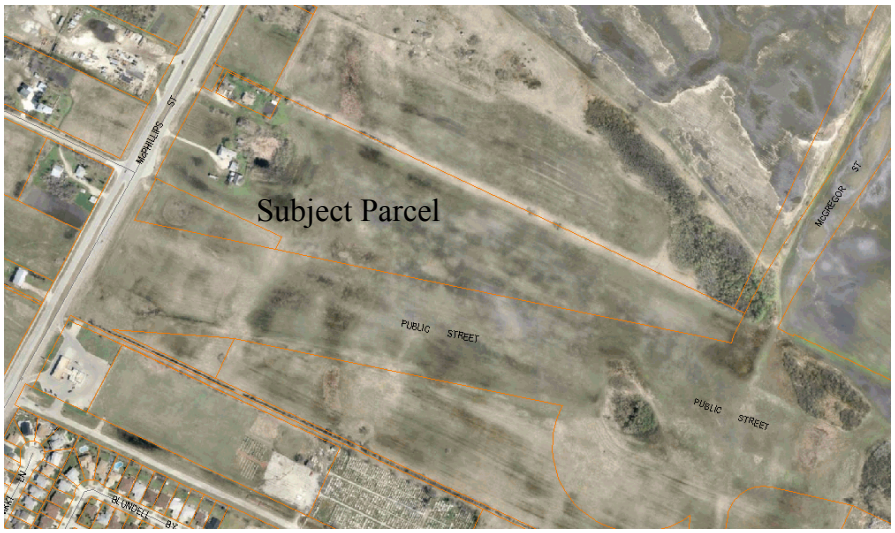
Division Planning and Land Use

Prepared by: Michael Robinson, AICP, District Planner, Lord Selkirk-West Kildonan

PPD File No. EP-1.1(PW)

O:\Reports Directive\Planning and Land Use\Urban Planning Reports\2007 Reports\2689 McPhillips Appeal.doc

Appendix 1


Subject Parcel
PUBLIC STREET
PUBLIC STREET
McGREGOR ST


Subject Parcel