Agenda – Council – January 28, 2009

Report - Executive Policy Committee - January 16, 2009

Item No. 1 Cancellation of Building Restriction Caveat - 84 Scurfield Boulevard (River Heights-Fort Garry Ward) File EC(BRC)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 16, 2009, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submits the following to Council:

1. That Caveat No. 1031390 on Title No. 2312906 be withdrawn.

2. That the Acting City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report - Executive Policy Committee - January 16, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 16, 2009, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 6, 2009, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Zoning Agreement Amendment - 84 Scurfield Boulevard**
File ZAA 22/2008

For submission to: **Executive Policy Committee**

Prepared by: **Josie Marques, Senior Committee Clerk**
City Centre Community Committee

Report date: **January 7, 2009**

COMMUNITY COMMITTEE RECOMMENDATION:

On January 6, 2009, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

1. That Caveat No. 1031390 on Title No. 2312906 be withdrawn.

2. That the Acting City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

The City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. The caveat is obsolete.

PUBLIC HEARING SUMMARY

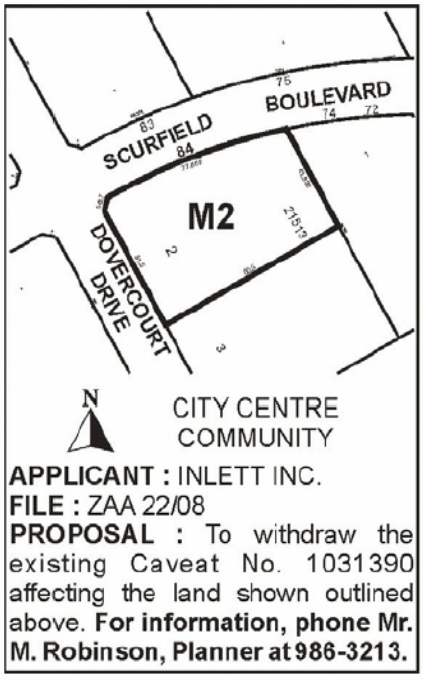
File: ZAA 22/2008

Before: City Centre Community Committee
Councillor Gerbasi, Chairperson
Councillor Smith

Public Hearing: January 6, 2009
North Committee Room
Council Building, 510 Main Street

Applicant: Pullan Kammerloch Frohlinger (Curtis Peters)

Subject:



Premises Affected: 84 Scurfield Boulevard

Exhibits Filed:

1. Application dated November 3, 2008
2. Notification of Public Hearing dated November 21, 2008
3. Title Search 2312906
4. Letter of authorization dated October 10, 2008 from Inlett Inc. to Pullan Kammerloch Frohlinger

5a. Caveat No. 1031390
5b. Caveat No. 87-112943
6a. Zoning Agreement DAZ 44/79 dated April 16, 1980

6b. Amendment to Zoning Agreement DASSF 272/87 dated September 29, 1987
7. Report from the Planning and Land Use Division dated December 8, 2008
8. Inspection Report
9. Audio Recording of representations

REPRESENTATIONS:

In Support:

Curtis Peters, Pullan Kammerloch Frohlinger

In Opposition

Nil

For Information:

Nil

For the City:

Mr. M. Robinson, Senior Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 22/2008

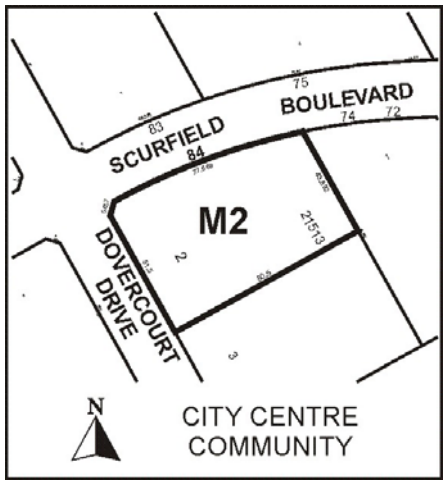
Winnipeg

Planning, Property and Development Department Report

To the City Centre Community Committee

Date: **December 8, 2008**
File: **ZAA 22/2008**
Related Files: **DASZ 44/79, DASZ 272/87**
Subject: **Application to discharge an existing agreement between two private parties, which is identified as Caveat # 1031390, on Title #2312906.**

Location: **84 Scurfield Blvd.**



Applicant: **Curtis Peters (Pullan Kammerloch Frohlinger)**
Owner: **Inlett Inc.**

Recommendation: ***Approval***

Report Summary:

- **The applicant contact land titles about removing the subject caveat but were told that this could not be discharged without municipal approval**
- **The subject caveat is an agreement between two private parties. The City of Winnipeg is not a party to this agreement.**
- **This caveat is not a zoning agreement.**
- **There is an existing zoning agreement on this property which would not be affected by the removal of this caveat.**
- **The caveat is obsolete and no longer required**
- **The Planning and Land Use Division recommends that it be discharged**

Site Description

The subject property, which is zoned "M2" Industrial, is located at the southeast corner of Scurfield Boulevard and Dovercourt Drive, in the West Fort Garry Industrial neighbourhood of the River Heights-Fort Garry ward.

North: Industrial uses zoned "M1" Industrial
South: Industrial uses zoned "M2" Industrial
East: Industrial uses zoned "M2" Industrial
West: Industrial uses zoned "M2" Industrial

Background

During the early period of development of the Whyte Ridge area, Granny's Poultry entered into a development agreement with Whyte Ridge Industrial Developments Ltd. dated and registered by caveat on June 6th, 1988.

Recently, because of a change of ownership of the property, the applicant approached the Winnipeg Land Titles Office (WLTO) to request to remove this caveat. However, because Whyte Ridge is a dissolved company, and as it is difficult to determine exactly who all of the effected parties in the area would be, the WLTO is requiring that prior to the caveat being removed, municipal approval must be granted.

Description of the Proposed Development

The subject property has been sold by Granny's to a new commercial interest, Boyd's Auto glass. However, the aforementioned private agreement limits the use of the subject property to a chicken hatchery.

With that said, the Division has reviewed the agreement and believes that it does not create significant restrictions beyond what is already provided for in the City of Winnipeg Zoning Agreement and the Zoning By-law, and therefore does not, other than by controlling the use of Granny's with respect to the poultry operation, have any broader relevance to the City.

Similarly, the Division believes that the City has no interest in requiring a valuable commercial property to be used only as a chicken hatchery.

Consequently, the Division believes that the private development agreement is redundant and unnecessary.

Additionally, given that the developer who is party to this agreement (Whyte Ridge Industrial Developments Ltd) is no longer is business, the force of this agreement is questionable.

For these reasons, the Division recommends that this agreement be discharged.

Recommendation

The Planning and Land Use Division recommend approval for the following reasons:

- The agreement does not create significant restrictions beyond what is already provided for in the City of Winnipeg Zoning Agreement and the Zoning By-law.

- Given that the developer who is party to this agreement (Whyte Ridge Industrial Developments Ltd) is no longer is business, the force of this agreement is questionable.

Recommended Conditions of Approval

1. That Caveat #1031390 on Title # 2312906 be withdrawn.

2. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: Michael Robinson, AICP
PPD File # ZAA 22/08



Figure 1: Aerial Photo (Flown in 2005)