Minute No. 397
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 7, 2016

Item No. 6 Application to Cancel a Building Restriction Caveat – 5 Scurfield Boulevard
(River Heights-Fort Garry Ward)

COUNCIL DECISION:

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

1. That the cancellation of Building Restriction Caveat No. 81-2633/1 against the property commonly known as 5 Scurfield Boulevard, be approved.

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

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 7, 2016

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 8, 2016, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 7, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: **APPLICATION TO CANCEL A BUILDING RESTRICTION CAVEAT - 5 SCURFIELD BOULEVARD**

Critical Path: **STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT, HERITAGE AND DOWNTOWN DEVELOPMENT - EXECUTIVE POLICY COMMITTEE – COUNCIL**

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	J. Kiernan	n/a	D. McNeil

RECOMMENDATIONS

1. That Council recommend approval of the cancellation of Building Restriction Caveat No. 81-2633/1 against the property commonly known as 5 Scurfield Boulevard.

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

REASON FOR THE REPORT

Subsection 104(3) of *The Municipal Board Act* provides that where lands affected by a Building Restriction Caveat (BRC) are located in Winnipeg, no order of the Municipal Board shall be made to cancel the BRC unless Council has, by resolution, recommended the cancellation and a certified copy of its resolution is filed with the Board.

EXECUTIVE SUMMARY

The owner of the property commonly known as 5 Scurfield Boulevard requires a resolution by Council recommending the cancellation of Building Restriction Caveat No. 81-2633/1 in order to proceed with an application before the Municipal Board of Manitoba to cancel the caveat. (Appendix A attached).

IMPLICATIONS OF THE RECOMMENDATIONS

There are no policy, regulatory, environmental, human resource, financial or general implications associated with the recommendations.

HISTORY/DISCUSSION

2253062 Manitoba Ltd. is purchasing a parcel of City owned land pertaining to DAPS 6/14, which is adjacent to property that it already owns. In order for the two properties to be consolidated, the Winnipeg Land Titles Office requires the discharge of the BRC, which only affects the parcel currently owned by 2253062 Manitoba Ltd.

The BRC was filed to protect the property values in the area by ensuring any construction on the land by the purchaser would be done in a manner to sustain an environment of business refinement and to retain the integrity and attractiveness of the Whyte Ridge Industrial Park. The Planning, Property and Development advise that the property is zoned “M1 and M2”, which is consistent with the immediate surrounding area. If the caveat is removed, the owner would still be bound by the existing zoning bylaws under the “M1 and M2” designations.

The BRC was based on an agreement between the Whyte Ridge Industrial Developments Ltd. and Confederation Life Assurance Company, filed in the Winnipeg Land Titles Office in 1981. The City of Winnipeg had no involvement in the Agreement and the BRC filed in respect thereof. The solicitor for 2253062 Manitoba Ltd will be making application to The Municipal Board in accordance with The Municipal Board Act to cancel the BRC. In accordance with The Municipal Board Act, a resolution of Council recommending the removal of the caveat must be provided in support of the application.

The Municipal Board will schedule a hearing upon receipt of a certified copy of a resolution of Council of The City of Winnipeg recommending the cancellation requested.

FINANCIAL IMPACT

Financial Impact Statement Date: May 13, 2016

Project Name:

CANCELLATION OF A BUILDING RESTRICTION CAVEAT PERTAINING TO 5 SCURFIELD BOULEVARD

COMMENTS:

There are no financial implications associated with this report.

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

CONSULTATION

In preparing this report there was consultation with:

Legal Services Department

Planning, Property and Development Department

OURWINNIPEG POLICY ALIGNMENT

N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Land Development, Geomatics and Land Information Services
Prepared by: Jeffrey Smith, M.L.S.
Date: May 13, 2016

Attachments

Appendix “A” – The application/request cover letter from the applicant.

O:\Reports Directive\Land Development, Geomatics and Land Information Services\Geomatics\Cancellation of BRC 81_2633 - 5 Scurfield Blvd.docx

V:\Jobs\2016\20160286\Correspondence\Application Documents\Cancellation of BRC 81_2633 - 5 Scurfield Blvd.docx

TapperCuddy LLP

April 15, 2016

Brett Williams
Direct line: 204.944.3277
Email: bwilliams@tappercuddy.com

ORIGINAL VIA COURIER
COPY VIA E-MAIL to RobertRobinson@winnipeg.ca

The City of Winnipeg
Planning, Property and Development Department
Land Development, Geomatics & Land Information Services Branch
2nd Floor – 65 Garry Street
Winnipeg, Manitoba R3C 4K4

Attention: Robert Robinson

Dear Sir:

Re: Application for Removal of Building Restriction Caveat, Registered as No. 81-2633/1
2253062 Manitoba Ltd. – Purchase of Lands from City of Winnipeg

Further to our emails in this regard, we submit this application for removal of Building Restriction Caveat No. 81-2633/1 registered against Title No. 2638627/1.

Our office acts on behalf of 2253062 Manitoba Ltd (hereinafter "225"). 225 is purchasing a parcel of land from the City of Winnipeg pursuant to an Offer to Purchase dated October 8, 2013. The parcel of land 225 is acquiring, identified as Parcel B on the attached Plan of Survey, is adjacent to property that 225 already owns, municipally known as 5 Scurfield Boulevard and legally known as Lot 6, Block 7, Plan 15345. A condition of the purchase is that the purchased lands be consolidated with 225's adjoining lands.

Registered against title to 225's adjoining lands is an old Building Restriction Caveat, registered as No. 81-2633/1. WLTO requires this caveat to be discharged or amended to allow the two properties to be consolidated. We would like to apply to the Municipal Board for the removal of this caveat as it appears to be of limited use or concern as it is now some 35 years after registration. The Municipal Board requires a certified copy of a resolution of Council consenting to the discharge prior to considering an application to have it removed. Consequently, we submit this application.

Lastly, I note that Shaw Communications Inc. applied for and successfully obtained a Municipal Board Order to have this exact same Building Restriction Caveat discharged from title to three properties it was consolidating in 2011. A copy of that Order is enclosed with this letter for your reference.

Enclosed are the following documents:

1) Our cheque, made payable to The City of Winnipeg, in the sum of $435.00 in payment of the application fee;
2) Copy of Offer to Purchase dated October 8, 2013;
3) Copy of Plan of Survey for lands 225 is acquiring (Parcel B);
4) Status of Title for Title No. 2638627/1;
5) Copy of Caveat No. 81-2633/1;
6) Status of Instrument re: Caveat No. 81-2633/1 showing all titles the caveat is registered against; and

. . . / 2

7) Copy of Municipal Board Order from December 21, 2011 granting the discharge of Caveat No. 81-2633/1 from Lots 5, 6, and 7, Block 6, Plan 15345.

Should you have any questions or concerns in this regard please contact me immediately.

Yours truly,

TAPPER CUDDY LLP

PER:

BRETT WILLIAMS

BW/cd
Enclosures