Minutes – Executive Policy Committee – June 29, 2016

APPEAL HEARINGS

Item No. 1 **Refused Application – OurWinnipeg By-law No. 67/2010, Complete Communities Direction Strategy By-law No. 68/2010, Precinct "K" By-law No. 48/2014 – 101 Creek Bend Road (St. Boniface Ward) File PW 1/2010**

On June 27, 2016, the Appellant withdrew the appeal.

Minutes – Executive Policy Committee – June 29, 2016

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 8, 2016, the Executive Policy Committee did not hear any representation on the application and adjourned the appeal hearing to its meeting on June 29, 2016, at 9:00 a.m. in the Council Building at 510 Main Street.

On May 11, 2016, the Executive Policy Committee adjourned the appeal hearing to its meeting on June 8, 2016, at 9:00 a.m. in the Council Building at 510 Main Street.

PUBLIC HEARING SUMMARY

File:	PW 1/2010
Before:	Executive Policy Committee His Worship Mayor Bowman, Chairperson Deputy Mayor Pagtakhan Councillor Browaty Councillor Mayes Councillor Orlikow
Public Hearing:	June 29, 2016 June 8, 2016 May 11, 2016 Council Building, 510 Main Street
Appellant:	Heather Davis
Premises Affected:	101 Creek Bend Road
Nature of Appeal:	On December 17, 2015, Heather Davis appealed the decision dated December 15, 2015, issued by the Zoning and Permits Administrator, Planning, Property and Development Department, regarding provisions of OurWinnipeg Plan By-law No. 67/2010, Complete Communities Direction Strategy By-law No. 68/2010, and Precinct "K" By-law No. 48/2014 for the premises located at 101 Creek Bend Road. The Decision stated: "…a development permit cannot be issued on PT2 Plan 2321 as the subject lot is not serviced by a full range of municipal services including, piped municipal water, wastewater, and land drainage facilities, which are requirements of OurWinnipeg (By-law 67/2010); the Complete Communities Direction Strategy (Secondary Plan By-law 68/2010); and, the Precinct K – Precinct Plan (Secondary Plan By-law 48/2014). Since a development permit must be issued pursuant to the City of Winnipeg Zoning By-law No. 200/2006 to authorize the issuance of any building permit, the subject property is currently undevelopable."

Exhibits Filed:

1. Decision dated December 15, 2015, issued by the Zoning and Permits Administrator, Planning, Property and Development Department
2. Notice of Appeal filed by Heather Davis received December 23, 2015
3. Notification of Appeal Hearing dated January 12, 2016
4. Revised Notification of Appeal Hearing dated January 29, 2016
5. Notice of Adjournment dated May 11, 2016
6. Notice of Adjournment dated June 9, 2016
7. Revised Decision dated June 24, 2016, issued by the Zoning and Permits Administrator, Planning, Property and Development Department
8. Communication dated June 27, 2016, from the Appellant, withdrawing the appeal

Exhibit "8" – Appeal – By-law No. 67/2010 – 101 Creek Bend Road

From: Heather Davis
Sent: Monday, June 27, 2016 2:40 PM
To: Gameiro, Carlos
Subject: Withdrawal of Appeal 101 Creek Bend Rd

I would like to confirm that my last email contained the following:-

We would like to withdraw our appeal of the refused application for 101 Creek Bend upon successful resolution of the matter with the Public Service.
We have been advised by the Public Service in letter correspondence that we may proceed with an application for a development permit based on the following reasons:

- **The lot is located in the Estate Residential Policy Area of the Precinct K plan; is over a quartet acre in area, and is zoned —RI- E – Single Family Residential Estate. As such, the lot is zoned and sized in accordance with the Estate Residential policies of the Precinct K Precinct Plan and development of a detached single-family dwelling on the lot is a permitted use.**
- **Development of a single-family detached dwelling on PT' Plan 2321 does not appear to require a rezoning. subdivision, consent, conveyance, variance or conditional use.**
- **There are no viable options to conned to piped municipal water, wastewater and land**

drainage facilities. A connection to piped municipal services is not likely to occur within a reasonable time frame.

- **Development of a single family detached dwelling on PT 2 Plan 2321 'with private**

services is unlikely to impede future municipally-serviced development that is consistent with planning policies for the surrounding area.
We would like to thank the Public Service for their effort to find a win-win resolution to this matter.
I've attached the Public Service letter for your records.
Please, by way of a response, acknowledge this email is sufficient to withdraw the appeal.
I would also like to ensure that this letter and its attachment letter from Martin Grady form part of the public records related to this withdrawal.
Thank you,
Heather Davis
Sent from my iPad

Exhibit "1" – Appeal – By-law No. 67/2010 – 101 Creek Bend Road

Winnipeg

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

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

In reply please refer to / Référence à rappeler :

Martin Grady
Phone: (204) 986-5147
Fax: (204) 986-6347
Z.P.B.

December 15, 2015

ATTENTION:

Dear Ms. Heather Davis:

RE: 101 CREEK BEND ROAD

The Planning, Property and Development Department has received your request for information regarding the development potential of your property PT 2 Plan 2321, which is currently addressed 101 Creek Bend Road.

We note the following regulations in our review of your request:

- Section 235 of the City of Winnipeg Charter Act requires development in the city to be consistent with the City of Winnipeg Development Plan or any secondary plan.
- Direction 01-3 of OurWinnipeg (the City of Winnipeg Development Plan – By-law 67/2010) states: "Enable the intensification of land-uses through the development application process only when a full range of municipal services is provided."
- Direction 1 for New Communities in the Complete Communities Direction Strategy (Secondary Plan By-law 68/2010) states: "Only approve new development when a full range of municipal services, as defined in OurWinnipeg, can be provided in an environmentally-sound, economical and timely manner."
- Section 5.1.1(a) of the Precinct K – Precinct Plan (Secondary Plan By-law 48/2014) states: "Development within the planning area shall be serviced with piped municipal water, wastewater, and land drainage facilities."
- Section 3.(2) of the City of Winnipeg Zoning By-law No. 200/2006 requires all activity and development to which this By-law applies to conform to the provisions of Zoning By-law No. 200/2006 and must be consistent with OurWinnipeg and with any adopted Secondary Plans that cover the land in question.

- Section 8.(3) of the City of Winnipeg Zoning By-law No. 200/2006 states "Where a person makes application for a development permit in respect of a development, the Director shall, where the application does not conform with OurWinnipeg, a Secondary Plan or development by-laws, reject the development permit."

The subject lot falls within the Estate Residential Policy Area of the Precinct K – Precinct Plan (Secondary Plan By-law 48/2014) and is zoned "R1-E" Residential Single-Family Estate. The lot is consistent with the Estate Residential Policies found under section 3.4 of the Precinct K – Precinct Plan and meets the dimensional standards of the "R1-E" zoning district.

However, considering the six regulations noted above, a development permit can not be issued on PT2 Plan 2321 as the subject lot is not serviced by a full range of municipal services including, piped municipal water, wastewater, and land drainage facilities, which are requirements of OurWinnipeg (By-law 67/2010); the Complete Communities Direction Strategy (Secondary Plan By-law 68/2010); and, the Precinct K – Precinct Plan (Secondary Plan By-law 48/2014).

Since a development permit must be issued pursuant to the City of Winnipeg Zoning By-law No. 200/2006 to authorize the issuance of any building permit, the subject property is currently undevelopable.

You may appeal this decision by submitting a letter by 4:30 pm on January 4, 2016 to the Manager of the Decision Making Process at the following address:

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

Attention: Carlos Gameiro
Manager of the Decision Making Process
Phone: (204) 986-6631

Yours truly,

Martin Grady
Zoning & Permits Administrator

Exhibit “2” – Appeal – By-law No. 67/2010 – 101 Creek Bend Road

CITY CLERKS HPG '15 DEC 23 10:00

Dec 17 2015

H Davis

Martin Grady

ZPB

This letter is an appeal to your decision to not issue a development permit on PT2 Plan 2321 . We had previous approval to build on this property and were never informed of anything to the contrary . We have grandfather rights in this case.

Yours truly

Ms Heather Davis HMDavis

Copies sent to

Carlos Gameiro ; manager of the decision making process

Ron Olesky

Exhibit "3" – Appeal – By-law No. 67/2010 – 101 Creek Bend Road

Winnipeg

City Clerk's Department • Bureau du greffier

REGISTERED MAIL RW

January 12, 2016

File PW 1/2010

Heather Davis

Appeal – OurWinnipeg By-law No. 67/2010, Complete Communities Direction Strategy By-law No. 68/2010, Precinct "K" By-law No. 48/2014 – 101 Creek Bend Road

This will acknowledge receipt of your communication dated December 17, 2015, appealing the Decision of the Zoning and Permits Administrator, Planning, Property and Development Department, regarding provisions of OurWinnipeg By-law No. 67/2010, Complete Communities Direction Strategy By-law No. 68/2010, and Precinct "K" By-law No. 48/2014 for the premises located at 101 Creek Bend Road.

Please be advised that the appeal will be heard by the Executive Policy Committee at its meeting on Wednesday, February 10, 2016, 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.

Carlos Gameiro
Manager of the Decision Making Process
Telephone 204-986-6631
Email cgameiro@winnipeg.ca

c. Mr. D. McNeil, Chief Administrative Officer
Mr. J. Kiernan, Director of Planning, Property and Development
Ms K. Boryskavich, Director of Legal Services and City Solicitor
Mr. B. Smith, Manager of Urban Planning, Planning, Property and Development Department
Mr. S. Dueck, Manager of Development and Inspections, Planning, Property and Development Department
Mr. M. Grady, Administrator of Zoning and Permits, Planning, Property and Development Department

311 Winnipeg at your service.

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Winnipeg • Manitoba • R3B 1B9
www.winnipeg.ca

311 Winnipeg à votre service!

Exhibit "4" – Appeal – By-law No. 67/2010 – 101 Creek Bend Road

Winnipeg

City Clerk's Department • Bureau du greffier

REVISED NOTICE

REGISTERED MAIL RW 114 937 863 CA

January 29, 2016

File PW 1/2010

Heather Davis

Winnipeg, MB

Appeal – OurWinnipeg By-law No. 67/2010, Complete Communities Direction Strategy By-law No. 68/2010, Precinct "K" By-law No. 48/2014 – 101 Creek Bend Road

This will acknowledge receipt of your communication dated December 17, 2015, appealing the Decision of the Zoning and Permits Administrator, Planning, Property and Development Department, regarding provisions of OurWinnipeg By-law No. 67/2010, Complete Communities Direction Strategy By-law No. 68/2010, and Precinct "K" By-law No. 48/2014 for the premises located at 101 Creek Bend Road.

Please be advised that the appeal will be heard by the Executive Policy Committee at its meeting on Wednesday, **May 11, 2016**, 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.

Carlos Gameiro
Manager of the Decision Making Process
Telephone 204-986-6631
Email cgameiro@winnipeg.ca

c. Mr. D. McNeil, Chief Administrative Officer
Mr. J. Kiernan, Director of Planning, Property and Development
Ms K. Boryskavich, Director of Legal Services and City Solicitor
Mr. B. Smith, Manager of Urban Planning, Planning, Property and Development Department
Mr. S. Dueck, Manager of Development and Inspections, Planning, Property and Development Department
Mr. M. Grady, Administrator of Zoning and Permits, Planning, Property and Development Department

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Exhibit "5" – Appeal – By-law No. 67/2010 – 101 Creek Bend Road

Winnipeg

City Clerk's Department • Bureau du greffier

May 11, 2016

File PW 1/2010

TO WHOM IT MAY CONCERN:

Refused Application – OurWinnipeg By-law No. 67/2010, Complete Communities Direction Strategy By-law No. 68/2010, Precinct "K" By-law No. 48/2014 – 101 Creek Bend Road

On May 11, 2016, the Executive Policy Committee adjourned the appeal hearing regarding the Decision of the Zoning and Permits Administrator, Planning, Property and Development Department dated December 15, 2015, regarding provisions of OurWinnipeg By-law No. 67/2010, Complete Communities Direction Strategy By-law No. 68/2010, and Precinct "K" By-law No. 48/2014, for the premises located at 101 Creek Bend Road.

Please be advised that the appeal hearing will reconvene before the Executive Policy Committee at its meeting to be held on Wednesday, June 8, 2016, at 9:00 a.m. in the Council Building, 510 Main Street.

Additional information on this matter can be accessed via the City Clerk's Department Decision Making Information System at www.winnipeg.ca/CLKDMIS in Committee's Minute documents.

Carlos Gameiro
Manager of the Decision Making Process
Telephone 204-986-6631
Email cgameiro@winnipeg.ca

c. Mr. D. McNeil, Chief Administrative Officer
Mr. J. Kiernan, Director of Planning, Property and Development
Ms K. Boryskavich, Director of Legal Services and City Solicitor
Mr. B. Smith, Manager of Urban Planning, Planning, Property and Development Department
Mr. S. Dueck, Manager of Development and Inspections, Planning, Property and Development Department
Mr. M. Grady, Administrator of Zoning and Permits, Planning, Property and Development Department

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Exhibit "6" – Appeal – By-law No. 67/2010 – 101 Creek Bend Road

Winnipeg

City Clerk's Department • Bureau du greffier

June 9, 2016

File PW 1/2010

TO WHOM IT MAY CONCERN:

Refused Application – OurWinnipeg By-law No. 67/2010, Complete Communities Direction Strategy By-law No. 68/2010, Precinct "K" By-law No. 48/2014 – 101 Creek Bend Road

On June 8, 2016, the Executive Policy Committee further adjourned the appeal hearing regarding the Decision of the Zoning and Permits Administrator, Planning, Property and Development Department dated December 15, 2015, regarding provisions of OurWinnipeg By-law No. 67/2010, Complete Communities Direction Strategy By-law No. 68/2010, and Precinct "K" By-law No. 48/2014, for the premises located at 101 Creek Bend Road.

Please be advised that the appeal hearing will reconvene before the Executive Policy Committee at its meeting to be held on Wednesday, June 29, 2016, at 9:00 a.m. in the Council Building, 510 Main Street.

Additional information on this matter can be accessed via the City Clerk's Department Decision Making Information System at www.winnipeg.ca/CLKDMIS in Committee's Minute documents.

Carlos Gameiro
Manager of the Decision Making Process
Telephone 204-986-6631
Email cgameiro@winnipeg.ca

c. Mr. D. McNeil, Chief Administrative Officer
Mr. J. Kiernan, Director of Planning, Property and Development
Ms K. Boryskavich, Director of Legal Services and City Solicitor
Mr. B. Smith, Manager of Urban Planning, Planning, Property and Development Department
Mr. S. Dueck, Manager of Development and Inspections, Planning, Property and Development Department
Mr. M. Grady, Administrator of Zoning and Permits, Planning, Property and Development Department

Exhibit "7" – Appeal – By-law No. 67/2010 – 101 Creek Bend Road

Winnipeg

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

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

In reply please refer to / Référence à rappeler :

Martin Grady
Phone: (204) 986-5147
Fax: (204) 986-6347
Z.P.B.

June 24, 2016

101 Creek Bend Road
Winnipeg, MB
R3X 1V9

ATTENTION: Ms. Heather Davis

Dear Ms. Davis:

RE: PT 2 PLAN 2321 - 101 CREEK BEND ROAD

Per your request, we have reviewed our interpretation in the letter issued to you on December 15, 2015 and have concluded that a proposed single-family detached dwelling on PT 2 Plan 2321 – that does not require a rezoning, subdivision, conditional use, variance, consent, or conveyance – can be issued a development permit without piped municipal water, wastewater, and land drainage facilities.

We draw this conclusion from our subsequent interpretation of the third bullet point found under section 1.4.2 *Policies Applications and Interpretations* of the Precinct K – Precinct Plan (Secondary Plan By-law 48/2014):

> *In cases where the word "shall" is included in a policy, the policy is considered mandatory. However, where actual quantities or numerical standards are contained within a mandatory policy, the quantities or standards may be deviated from, provided that the deviation is necessary to address unique circumstances that will otherwise render compliance impractical or impossible, so that the intent of the policy is still achieved.*

Originally, the primary basis for refusing a proposed development permit for a single-family detached dwelling on PT 2 Plan 2321 was Section 5.1.1(a) of the Precinct K – Precinct Plan, which states:

> *Development within the planning area shall be serviced with piped municipal water, wastewater, and land drainage facilities.*

THIS IS EXHIBIT " 7 " REFERRED TO
IN FILE NO. Pw1 2010-19 Creek Bend
DATED THIS 29 day of June 2016

Manager of the Decision Making Process

Our Department is of the view that it is necessary to deviate from the quantity and standards of section 5.1.1(a) to accommodate the development proposal on the subject lot to address the following unique circumstances that otherwise render compliance impractical or impossible:

- The subject lot is located in the Estate Residential policy area of the Precinct K – Precinct Plan; is over a quarter acre in area; and is zoned "R1-E" Residential Single-Family Estate. As such, the lot is zoned and sized in accordance with the Estate Residential policies of the Precinct K – Precinct Plan and development of a detached single-family dwelling on the lot is a permitted use.
- Development of a single-family detached dwelling on PT 2 Plan 2321 does not appear to require a rezoning, subdivision, consent, conveyance, variance or conditional use.
- There are no viable options to connect to piped municipal water, wastewater, and land drainage facilities. A connection to piped municipal services is not likely to occur within a reasonable time frame.
- Development of a single-family detached dwelling on PT 2 Plan 2321 with private services is unlikely to impede future municipally-serviced development that is consistent with planning policies for the surrounding area.

Upon receipt of this letter you may proceed with an application for a development permit on the subject lot.

In no way does this letter relieve development on the subject lot from any other applicable federal, provincial, or municipal requirements. Should an instance arise where development on the subject lot PT 2 Plan 2321 requires a development application for rezoning, subdivision, consent to registration or filing of a conveyance, variance, or conditional use, and piped municipal water, wastewater, and land drainage facilities are not available to service the lot as required under section 5.1.1(a) of the Precinct K – Precinct Plan, the development application will be refused without a hearing per section 275(2)(a) of the City of Winnipeg Charter Act.

We thank you for your patience with regard to this matter and hope that this letter satisfactorily addresses any outstanding concerns.

Yours truly,

Martin Grady
Zoning & Permits Administrator