Minutes – Executive Policy Committee – April 12, 2017

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 - 20 Sioux Road West**
(St. Boniface Ward)
File EP-1(A)

EXECUTIVE POLICY COMMITTEE DECISION:

The Executive Policy Committee denied the appeal and confirmed the Decision dated December 9, 2015, issued by the Zoning and Permits Administrator, Planning, Property and Development Department, denying the application for a development permit and a building permit for the development of a detached single-family dwelling at 20 Sioux Road West.

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the receipt of public representations be concluded.

Carried

Moved by Councillor Orlikow,

That the Appeal be denied and the Decision issued by the Zoning and Permits Administrator, Planning, Property and Development Department, be confirmed.

Carried

Councillor Gillingham, Councillor Mayes and Councillor Morantz asked to be recorded as having voted against the above motion, in accordance with Rule 47(7) of The Procedure By-law No. 50/2007.

Moved by Councillor Orlikow,

That the following supporting reasons be provided, namely:

1. Lot 31 is not for consideration at this point. With respect to comments regarding Lot 136, I don't see Sioux even remotely being a road at this point as it is only dirt and has no vehicular traffic. I agree with the definition today that the department does not consider it to be a frontage road.
2. The owner never had the rights to build and therefore I disagree with the comment that we are taking his rights away.
3. Planned Development Overlays (PDOs) and Secondary Plans are done collectively. The Secondary Plan does provide enhanced rights in the future for the developer. At this point, it is part of the precinct plan which clearly requires a full range of municipal services.
4. I have concerns about the long driveway. My hope was to see a public access road all the way through, similar to other developments where they have to put the full infrastructure forward.
5. When developers and residents come forward they look at issues very singularly about their property only, but we as Council look at it as precedent setting and the impact on the whole city. If we accept this argument today, we will have to accept others' arguments around the City of Winnipeg which would deride the planning process.

DECISION MAKING HISTORY (continued):

6. Because it is not a buildable lot and because the secondary plan is quite clear and because of some of the reasons raised, such as possible septic leeching into the Seine River, I can say in good conscience at this time that we shouldn't be allowing the application.

Carried

Councillor Gillingham, Councillor Mayes and Councillor Morantz asked to be recorded as having voted against the above motion, in accordance with Rule 47(7) of The Procedure By-law No. 50/2007.

Moved by Councillor Orlikow,

That the Appeal Hearing be concluded.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 8, 2017, the Executive Policy Committee adjourned the appeal hearing to its meeting on April 12, 2017, at 9:00 a.m. in the Council Building at 510 Main Street, and requested the Winnipeg Public Service to report back regarding road access to the subject property.

On February 8, 2017, the Executive Policy Committee further adjourned the appeal hearing to its meeting on March 8, 2017, at 9:00 a.m. in the Council Building at 510 Main Street.

On January 18, 2017, the Executive Policy Committee adjourned the appeal hearing to its meeting on February 8, 2017, at 9:00 a.m. in the Council Building at 510 Main Street.

On November 23, 2016, the Executive Policy Committee did not hear any representation on the application and adjourned the appeal hearing to its meeting on January 18, 2017, at 9:00 a.m. in the Council Building at 510 Main Street.

On September 14, 2016, the Executive Policy Committee did not hear any representation on the application and adjourned the appeal hearing to its meeting on November 23, 2016, at 9:00 a.m. in the Council Building at 510 Main Street.

On July 6, 2016, the Executive Policy Committee did not hear any representation on the application and further adjourned the appeal hearing to its meeting on September 14, 2016, at 9:00 a.m. in the Council Building at 510 Main Street.

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

On June 29, 2016, the Executive Policy Committee did not hear any representation on the application and adjourned the appeal hearing to its meeting on July 6, 2016, at 9:00 a.m. in the Council Building at 510 Main Street.

PUBLIC HEARING SUMMARY

File:	EP-1(A)
Before:	Executive Policy Committee His Worship Mayor Bowman, Chairperson Deputy Mayor Pagtakhan Councillor Gillingham Councillor Gilroy Councillor Mayes Councillor Morantz Councillor Orlikow
Appeal Hearing:	April 12, 2017 March 8, 2017 February 8, 2017 January 18, 2017 November 23, 2016 September 14, 2016 July 6, 2016 June 29, 2016 Council Building, 510 Main Street
Appellant:	Mark Newman, Fillmore Riley LLP
Premises Affected:	20 Sioux Road West
Nature of Appeal:	On December 29, 2015, Mark Newman, Fillmore Riley LLP, appealed the decision dated December 9, 2015, issued by the Zoning and Permits Administrator, Planning, Property and Development Department, denying the application for a development permit and a building permit for the development of a detached single-family dwelling at 20 Sioux Road West. The Decision stated: "…a development permit can not be issued as the subject site 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). In addition, the site is located adjacent to Sioux Road West and the Warde Avenue road allowance all of which are unimproved street right-of-ways. As such 20 Sioux Road can not be deemed a buildable "zoning lot" under the Winnipeg Zoning By-law 200/2006. No use permitted

under the Winnipeg Zoning By-law can be established unless the property abuts and improved public street.

Since a development permit must be issued pursuant to the City of Winnipeg Zoning By-law No. 200/2006 to authorize the issuance of a building permit, Permit# 14 161026 HO for the construction of a single family home at 20 Sioux Road can not be issued."

Exhibits Filed:

1. Decision dated December 9, 2015, issued by the Zoning and Permits Administrator, Planning, Property and Development Department
2. Notice of Appeal filed by Mark Newman, Fillmore Riley LLP, received December 29, 2015
3. Notification of Appeal Hearing dated June 1, 2016
4. Communication dated June 28, 2016, from the Appellant, requesting the Appeal Hearing be adjourned to July 6, 2016
5. Notice of Adjournment dated June 29, 2016
6. Notice of Adjournment dated July 6, 2016
7. Communication dated September 12, 2016, from the Appellant, requesting the Appeal Hearing be adjourned to November 23, 2016
8. Notice of Adjournment dated September 14, 2016
9. Communication dated November 17, 2016, from the Appellant, requesting the Appeal Hearing be adjourned to January 18, 2017
10. Notice of Adjournment dated November 23, 2016
11. Notice of Adjournment dated January 18, 2017
12. Notice of Adjournment dated February 8, 2017
13. Presentation in support of the appeal submitted by Mark Newman, Appellant, at the appeal hearing held on March 8, 2017
14. PowerPoint Presentation submitted by Robert Kostiuk, Planner, Planning, Property and Development Department, at the appeal hearing held on March 8, 2017
15. Notice of Adjournment dated March 9, 2017
16. Communication dated April 11, 2017 from the Chief Corporate Services Officer, on behalf of Winnipeg's Planning Executive Advisory Committee (PEAC), submitted by Braden Smith, Chief Planner, Planning, Property and Development Department, at the appeal hearing held on April 12, 2017
17. Drawing of Actual Proposed Road and Driveway submitted by Robert Kostiuk, Planner, Planning, Property and Development Department, at the appeal hearing held on April 12, 2017
18. DASZ 8/2007 adopted by Council on May 16, 2007, and Aerial Photographs (2) in support of the appeal, submitted by Mark Newman, Appellant, at the appeal hearing held on April 12, 2017

19. Presentation, and Maps “The Big Picture” and “A Closer Look”, in opposition to the Appeal, submitted by Michele Kading, Executive Director, Save Our Seine, at the appeal hearing held on April 12, 2017
20. Communication from Denis Gautron, President of Save Our Seine, in opposition to the Appeal, submitted at the appeal hearing held on April 12, 2017

REPRESENTATIONS:

In Support of the Appeal:

Manuel Botelho
Bev Mulder
Randy Mulder
Mark Newman
Michelle Richard
Tony Sampson
John Wintrup
Councillor Wyatt, Transcona Ward

In Opposition to the Appeal:

Denis Gautron
Michele Kading

For Information on the Appeal

Ed Labossiere
David Watson

For the City:

J. Carter, Solicitor, Legal Services Department
J. Kiernan, Director, Planning, Property and Development Department
R. Kostiuk, Planner, Planning, Property and Development Department
S. Rentz, Solicitor, Legal Services Department
B. Smith, Chief Planner, Planning, Property and Development Department

Exhibit "1" – Appeal – Refused Application – Development and Building Permits – 20 Sioux Road West

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 9, 2015

Mr. Lloyd Sampson
C/O Elain Ledarney
George & Tweed Law Corporation

Dear Ms. Ledarney:

RE: 20 SIOUX ROAD PROPOSED DEVELOPMENT

The Planning, Property and Development Department has received an application for a development permit and a building permit for the development of a detached single-family dwelling at 20 Sioux Road West.

We note the following regulations in our review of the requested permit(s):

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 property predominantly falls within the Higher Density Residential Policy Area of the Precinct K – Precinct Plan (Secondary Plan By-law No. 48/2014) and is zoned "RR5" Rural Residential 5.

Considering the six regulations noted above, a development permit can not be issued as the subject site 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).

In addition, the site is located adjacent to Sioux Road West and the Warde Avenue road allowance all of which are unimproved street right-of-ways. As such 20 Sioux Road can not be deemed a buildable "zoning lot" under the Winnipeg Zoning By-law 200/2006. No use permitted under the Winnipeg Zoning By-law can be established unless the property abuts and improved public street.

Since a development permit must be issued pursuant to the City of Winnipeg Zoning By-law No. 200/2006 to authorize the issuance of a building permit, Permit # 14 161026 HO for the construction of a single family home at 20 Sioux Road can not be issued.

You may appeal this decision by submitting a letter by 4:30 pm on December 29, 2015 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

Yours truly,

Martin Grady
Zoning & Permits Administrator

Exhibit "2" – Appeal – Refused Application – Development and Building Permits – 20 Sioux Road West

CITY CLERKS WPG '15 DEC 29 14:02

FillmoreRiley

MARK NEWMAN
Direct Tel (204) 957-8325
Direct Fax (204) 954-0325
marknewman@fillmoreriley.com

LEGAL ASSISTANT
Michelle Soulodre
Tel (204) 956-2970 ext. 225
msoulodre@fillmoreriley.com
Our File Number: 429100-1/MN
FRDOCS_5563134.1

December 29, 2015

DELIVERED

The City of Winnipeg - City Clerk's Department
Main Floor Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Attention: Carlos Gameiro

Dear Sirs:

Re: 20 Sioux Road Proposed Development

We are counsel for the owners of 20 Sioux Road. We enclose a copy of correspondence dated December 9, 2015, directed to the property owners by the City of Winnipeg denying the application for a development permit and a building permit for the development of a detached single family dwelling.

We hereby appeal this decision.

Please telephone to discuss timing.

Yours truly,

FILLMORE RILEY LLP

Per:

MARK NEWMAN *

MN/mhs
Encl.
c: Lloyd/Helga Sampson

*Services provided by Mark Newman Law Corporation

Winnipeg

City Clerk's Department • Bureau du greffier

REGISTERED MAIL RW 114 937 951 CA

June 1, 2016

File EP-1(A)

Fillmore Riley LLP
1700 – 360 Main Street
Winnipeg, MB R3C 3Z3

Attention: Mark Newman

Appeal – Refused Application – Development and Building Permits – 20 Sioux Road West

This will acknowledge receipt of your communication dated December 29, 2015, appealing the Decision from the Zoning and Permits Administrator, Planning, Property and Development Department, dated December 9, 2015, to deny your application for a development permit and a building permit for the development of a detached single-family dwelling at 20 Sioux Road West.

Please be advised that the appeal will be heard by the Executive Policy Committee at its meeting on Wednesday, June 29, 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 are available for inspection in the City Clerk's Department, 510 Main Street, or can be accessed 96 hours prior to the meeting via the Decision Making Information System at www.winnipeg.ca/CLKDMIS. A description of the procedure to be followed at the hearing can be accessed at www.winnipeg.ca/clerks/cityHall/PublicHearingProcess.stm.

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

c. Mr. D. McNeil, Chief Administrative Officer
Ms K. Boryskavich, Director of Legal Services and City Solicitor
Mr. J. Kiernan, Director of Planning, Property and Development
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