Minute No. 469
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 13, 2020

Item No. 6 Application to Cancel Building Restriction Caveat in Favour of The Oaks on the Assiniboine Inc. – 97 Oak Forest Crescent (Charleswood-Tuxedo-Westwood Ward)

COUNCIL DECISION:

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

1. That Council recommend approval of the cancellation of Building Restriction Caveat No. 4009029/1 against the portion of property commonly known as 97 Oak Forest Crescent as shown bordered and hatched and identified as "Parcel A Area +/-97.4 m^2" on Misc. Plan 14084/1 (Appendix B attached).

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

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DECISION MAKING HISTORY:

Moved by Councillor Gilroy,

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 July 15, 2020, 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 July 13, 2020, 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 BUILDING RESTRICTION CAVEAT IN FAVOUR OF THE OAKS ON THE ASSSINIBOINE INC. – 97 OAK FOREST CRESCENT

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Robinson	J. Kiernan	N/A	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

The owner of the property commonly known as 97 Oak Forest Crescent requires a resolution by Council recommending cancellation in part of Building Restriction Caveat (BRC) No. 4009029/1 in order to proceed with an application before the Municipal Board of Manitoba to cancel the caveat in part (Appendix A attached).

The Public Service has reviewed the request and has no concerns as the Owners would still be bound by the existing zoning by-laws under the "R1-L" designation and by the BRC on the balance of the Owners' land.

RECOMMENDATIONS

1. That Council recommends approval of the cancellation of Building Restriction Caveat No. 4009029/1 against the portion of property commonly known as 97 Oak Forest Crescent as shown bordered and hatched and identified as "Parcel A Area +/-97.4 m^2" on Misc. Plan 14084/1 (Appendix B attached).

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

REASON FOR THE REPORT

Subsection 104(3) of The Municipal Board Act provides that where the lands affected by a Building Restriction Caveat (BRC) are located in Winnipeg, no order of the Municipal Board shall be made to vary, cancel or substitute in whole or in part the BRC unless Council has, by

resolution, recommended the variation, cancellation or substitution and a certified copy of its resolution is filed with the Board.

IMPLICATIONS OF THE RECOMMENDATIONS

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

HISTORY/DISCUSSION

Dean Stewart and Marcey Anne Cherniak (Owners) signed a Land Exchange Agreement (Agreement) with the City of Winnipeg to exchange a portion of their property with an equal portion of adjacent City-owned Public Reserve. In accordance with the requirements of the Agreement, a plan of subdivision was prepared under File No. DASZ 9/2019, which was approved by Council on June 20, 2019. To facilitate registration of the plan of subdivision and consolidation of the properties, the Winnipeg Land Titles Office requires BRC No. 4009029/1 be dealt with.

The BRC registered against the Owners' property references Instrument No. 4006203/1, which is the overall Community Development Guidelines (Guidelines) for "The Oaks of Assiniboine River West". The Guidelines "ensure the continued preservation and enhancement of the unique characteristics of the community and individual sites" and provides requirements as to the construction of a dwelling, fence and other improvements. The City of Winnipeg had no involvement in the Guideline document or the BRC filed in respect thereof. The Owners would still be bound by the existing zoning by-laws under the "R1-L" designation and by the BRC on the balance of the Owners' land.

Mr. Weltman of Levene Tadman Golub Law Corporation, on behalf of his clients Dean Stewart and Marcey Anne Cherniak, is seeking a Municipal Board Order to have the BRC cancelled from the portion of his clients' land (Lot 8 Block 2 Plan 47560 WLTO) being incorporated into the Public Reserve on Plan Deposit 1395/2019, which was prepared in accordance with DASZ 9/2019.

The solicitor for Dean Stewart and Marcey Anne Cherniak will be making application to the Municipal Board in accordance with The Municipal Board Act to cancel the BRC in part. In accordance with The Municipal Board Act, a resolution of Council recommending the cancellation in part of the BRC must be filed with the Municipal Board 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 29, 2020

Project Name:

APPLICATION TO CANCEL BUILDING RESTRICTION CAVEAT IN FAVOUR OF THE OAKS ON THE ASSSINIBOINE INC. – 97 OAK FOREST CRESCENT

COMMENTS:

There are no financial implications associated with this report.

Mike McGinn May 29, 2020
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

Legal Services Department (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

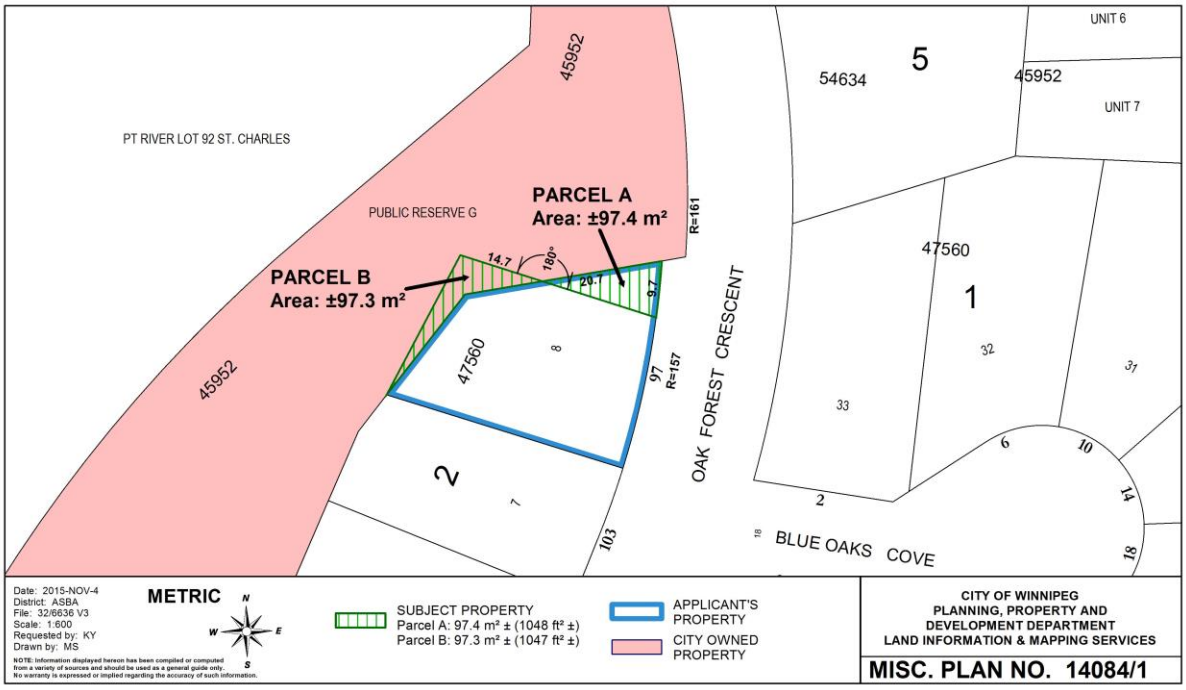
Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Jeff Smith, M.L.S., Geomatics Officer
Date: June 11, 2020

Attachments:

APPENDIX A - The application/request cover letter from the applicant

APPENDIX B - Misc. Plan 14084/1

Appendix B


PT RIVER LOT 92 ST. CHARLES
PUBLIC RESERVE G
45952
PARCEL A
Area: ±97.4 m²
PARCEL B
Area: ±97.3 m²
14.7
180°
20.7
97
R=161
47560
8
97
R=157
OAK FOREST CRESCENT
54634
5
UNIT 6
45952
UNIT 7
47560
1
32
31
33
2
6
10
14
18
2
7
103
18
BLUE OAKS COVE
Date: 2015-NOV-4
District: ASBA
File: 32/6636 V3
Scale: 1:600
Requested by: KY
Drawn by: MS
NOTE: Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.
METRIC
N
W
E
S
SUBJECT PROPERTY
Parcel A: 97.4 m² ± (1048 ft² ±)
Parcel B: 97.3 m² ± (1047 ft² ±)
APPLICANT'S PROPERTY
CITY OWNED PROPERTY
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 14084/1