Minute No. 72
Report "A" - Executive Policy Committee – November 28, 2012

Item No. 2 **Zoning Agreement Amendment – 64 and 70 Barnes Street (St. Norbert Ward) File ZAA 2/2012**

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the Zoning Agreement under File DASZ 25/2010 dated December 15, 2010 (By-law No. 139/2011), be amended as follows:

   A. That Clause 3 of the Zoning Agreement, which states:

      The maximum number of dwelling units permitted on Lot 1 of the Owner's Land is 84.

      be amended as follows:

      The maximum number of dwelling units permitted on the land zoned "RMF-S" Residential Multi-Family Small is 86.

   B. That Clauses 4 and 5 of the Zoning Agreement, which state:

      The maximum number of dwelling units permitted on Lot 2 of the Owner's Land is 100.

      The maximum number of dwelling units permitted on Lot 3 of the Owner's Land is 110.

      be deleted and replaced with the following:

      The maximum number of dwelling units permitted on the land zoned "RMF-L" Residential Multi-Family Large is 210.

Report "A" - Executive Policy Committee – November 28, 2012

COUNCIL DECISION (continued):

C. That Clause 12(iii) of the Zoning Agreement, which states:

November 8, 2014.

be deleted and replaced with the following:

November 8, 2012.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 25/2010 (By-law No. 139/2011) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

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

Report "A" - Executive Policy Committee – November 28, 2012

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 28, 2012, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 5, 2012, the Riel 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 – 64 and 70 Barnes Street**
File ZAA 2/2012

For submission to: **Executive Policy Committee**

Prepared by: **Visa Hutter, Senior Committee Clerk**
Riel Community Committee

Report date: **November 6, 2012**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 5, 2012, the Riel 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 the Zoning Agreement under File DASZ 25/2010 dated December 15, 2010 (By-law No. 139/2011), be amended as follows:

   A. That Clause 3 of the Zoning Agreement, which states:

      The maximum number of dwelling units permitted on Lot 1 of the Owner's Land is 84.

      be amended as follows:

      The maximum number of dwelling units permitted on the land zoned "RMF-S" Residential Multi-Family Small is 86.

   B. That Clauses 4 and 5 of the Zoning Agreement, which state:

      The maximum number of dwelling units permitted on Lot 2 of the Owner's Land is 100.

      The maximum number of dwelling units permitted on Lot 3 of the Owner's Land is 110.

      be deleted and replaced with the following:

      The maximum number of dwelling units permitted on the land zoned "RMF-L" Residential Multi-Family Large is 210.

   C. That Clause 12(iii) of the Zoning Agreement, which states:

November 8, 2014.

be deleted and replaced with the following:

November 8, 2012.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 25/2010 (By-law No. 139/2011) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

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

The Riel Community Committee provided the following supporting reasons for its recommendation:

1. The Riel Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated October 23, 2012.

2. This doesn't change the intent of the original plans approved. This corrects a mathematical error on one piece and the other is just combining to phase in another way.

PUBLIC HEARING SUMMARY

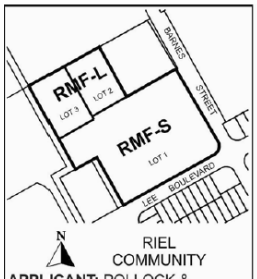
File: ZAA 2/2012

Before: Riel Community Committee
Councillor Swandel, Chairperson
Councillor Mayes
Councillor Vandal

Public Hearing: November 5, 2012
Council Building, 510 Main Street

Applicant: Pollock and Wright (Al Degner)

Subject:



RIEL
COMMUNITY

APPLICANT: POLLOCK & WRIGHT
FILE: ZAA2/12
PROPOSAL: To amend the Zoning Agreement affecting the land shown outlined above by amending condition 3 to read "the maximum number of dwelling units permitted on the "RMF-S" RESIDENTIAL MULTI-FAMILY (Small) DISTRICT is 86, delete conditions 4 & 5 and replace with "the maximum number of dwelling units permitted on the "RMF-L" RESIDENTIAL MULTI-FAMILY (Large) DISTRICT is 210 and amend condition 12 (iii) to read November 8, 2012 relating to construction of second tower. **For information, phone Mr. R. Kostiuk, Planner, at 204-986-7367.**
DEMANDEUR : POLLOCK & WRIGHT
N° DE RÉFÉRENCE : MCZ 2/12
PROJET : Modification de la convention de zonage s'appliquant au bien-fonds indiqué ci-dessus par la substitution de la condition 3 par « le nombre maximum de logements autorisé dans le secteur de catégorie RMF-S (PETITES HABITATIONS MULTIFAMILIALES) est de 86 », la substitution des conditions 4 et 5 par « le nombre maximum de logements autorisé dans le secteur de catégorie RMF-L (GRANDES HABITATIONS MULTIFAMILIALES) est de 210 » et la substitution de la condition 12 (iii) par la date du 8 novembre 2012 pour ce qui est de la construction de la deuxième tour. **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 204-986-7367.**

Premises Affected: 64 and 70 Barnes Street

Exhibits Filed:

1. Application dated September 10, 2012
2. Notification of Public Hearing dated September 19, 2012
3. Manitoba Status of Titles 2610305/1, 2610307/1 and 2610308/1
4. Caveat Nos. 4250795/1, 4250792/1 and 4250793/1 dated August 1, 2012
5. Letter of authorization dated August 30, 2012 from Robin Lee, Barnes & Lee Boulevard Ltd. to Pollock and Wright
6. Plans (4 pages)
7. Report from the Planning and Land Use Division dated October 23, 2012
8. Inspection Report

REPRESENTATIONS:

In Support:

Albert Degner (Pollock and Wright)
Marc Kipnes

In Opposition

Nil

For Information:

Nil

For the City:

Mr. M. Pittet, Manager of Land Development, Geomatics, and Land Information Services, Planning, Property and Development Department
Mr. K. Lalor, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 2/2012

ADMINISTRATIVE REPORT

Title: ZAA 2/2012 – 64 & 70 Barnes Street Public Hearing

Issue: An application for consideration at the Public Hearing to amend or delete four conditions of the zoning agreement that were applied under DASZ 25/2010.

Critical Path: Riel Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	N/A	N/A	

RECOMMENDATIONS

1. That the Zoning Agreement under File DASZ 25/2010 dated December 15, 2010 (By-law No. 139/2011), be amended as follows:

   A. That Clause 3 of the Zoning Agreement, which states:

   The maximum number of dwelling units permitted on Lot 1 of the Owner's Land is 84.

   be amended as follows:

   The maximum number of dwelling units permitted on the land zoned "RMF-S" Residential Multi-Family Small is 86.

   B. That Clauses 4 and 5 of the Zoning Agreement, which state:

   The maximum number of dwelling units permitted on Lot 2 of the Owner's Land is 100.

   The maximum number of dwelling units permitted on Lot 3 of the Owner's Land is 110.

   be deleted and replaced with the following:

   The maximum number of dwelling units permitted on the land zoned "RMF-L" Residential Multi-Family Large is 210.

   C. That Clause 12(iii) of the Zoning Agreement, which states:

   November 8, 2014.

   be deleted and replaced with the following:

November 8, 2012.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 25/2010 (By-law No. 139/2011) as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

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

REASON FOR THE REPORT

- The applicant is proposing to amend or delete four conditions of the zoning agreement that were applied under DASZ 25/2010.
- A zoning agreement amendment requires a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- The Report is being submitted for the Committee's consideration of the development application at the Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Urban Planning Division are concurred in, the clauses of the zoning agreement will be changed as requested.

HISTORY

DASZ 25/2010

- On December 15, 2010, Council approved the subdivision of the site into 3 lots and the rezoning of the subject properties (Lots 2 & 3) from RMF-S to RMF-L. The following zoning agreement caveat was placed on the land in conjunction with this subdivision and rezoning approval:

  2. That, for the development of any building, and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the Riel Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

  3. The maximum number of dwelling units permitted on Lot 1 of the Owner's Land is 84;

  4. The maximum number of dwelling units permitted on Lot 2 of the Owner's Land is 100;

5. The maximum number of dwelling units permitted on Lot 3 of the Owner's Land is 110;
6. That the maximum height of any building on Lot 2 shall not exceed 110 feet;

7. That the maximum height of any building on Lot 3 shall not exceed 110 feet;

8. That the Developer and all successors in title to the lots in the subdivision shall enter into, and register and maintain in perpetuity by way of caveat or master or declaratory easement against the titles to the lots, private cross-access agreements with the owners of the other lots so as to ensure access to every lot at all times, via streets or internal roads, by vehicles, including but not limited to City emergency service vehicles and transit buses. The Developer and owners must submit the agreements or easements to the City Solicitor for approval prior to execution;

9. That the Developer shall erect two (2), four (4) foot by eight (8(foot signs on the vacant subject properties indicating the location and zoning of the "RMF-L" Residential Multi-Family Large properties within twelve (12) months from the date that the said rezoning by-law is adopted by Council; and plans for the signs showing their location and design shall be submitted to Director of Planning, Property and Development for approval; and the signs shall be maintained to the satisfaction of the Director of Planning, Property and Development until such time as the land is either rezoned or a building permit issued for development;

10. That the address number of every building on the subject property (and the name of the building, if applicable) shall be physically attached to the building or otherwise posted on the subject property lot on which the building is located, so as to be clearly visible from the street or internal road on which the building is located, and;

11. That, where a building on the subject property is in a location that results in its number or name not being clearly visible from the street or internal road on which it is located, the number and name must be both attached to the building and displayed in another form that is clearly visible from the street or internal road. Where more than one building is located on a subject property lot, the requirement that the numbers and names be displayed in another form that is clearly visible from the street or internal road may be met by displaying the range of building numbers and names on that lot on signage to be approved by the Chief of the WFPS.

12. The Owner herby undertakes and agrees that it will not commence construction of the second tower (multi-family building) on the Owner's Land until:

    i) the twinning of Waverley Street and the extension of Kenaston Boulevard to Waverley Street are complete; or

    iii) until November 8, 2014,

    whichever occurs first.

DAV 10-155249/D

- On November 8, 2010, the Riel Community Committee approved variance application DAV 10-155249/D permitting the following on the site:

    1) for the establishment of two lots (Lots 2 and 3) not abutting a street (access to the parcels will be by way of a cross-access agreement);

    2) for the construction of a multiple family dwelling with an underground parkade on proposed Lot 3 to permit:

        a) no east side yard instead of 20 feet (6.096 metres);

b) no visitor parking stalls;

3) for the construction of a multiple family dwelling with an underground parkade on proposed Lot 2 to permit:

   a) no west side yard instead of 20 feet (6.096 metres);

   b) visitor stalls not being readily available to the entrance of the building to be served;

4) for the establishment of accessory parking areas to permit no access to the parking areas on Lots 2 and 3 from a street or a lane (access will be by way of a cross-access agreement)

subject to the following condition:

1. That the order shall come into force and effect upon the coming into force and effect of the zoning by-law for the subject land under File DASZ 25/2010.

CONSULTATION

In preparing this report there was consultation with: N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Robert Kostiuk, MCIP
Date:	October 23, 2012
File No.	ZAA 2/2012

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

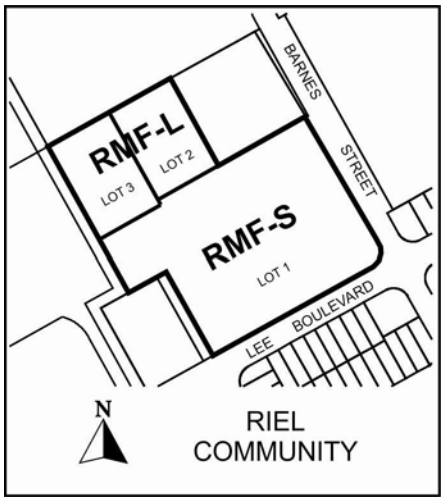
DATE: October 23, 2012

FILE: ZAA 2/2012
RELATED FILES: DASSF 541/2012, DASZ 25/2010, DAV 10-155249/D

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.637

SUBJECT: For consideration at the Public Hearing to amend or delete four conditions of the zoning agreement that were applied under DASZ 25/2010.

LOCATION: 64 & 70 Barnes Street
LEGAL DESCRIPTION: LOTS 1-3 Plan 53105



APPLICANT: Pollock & Wright (Al Degner)
117 Fort Street
WINNIPEG MB R3C 1C6

OWNER: Barnes & Lee Blvd. Ltd.
1540 Taylor Avenue
WINNIPEG MB R3N 1Y1

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant is proposing to amend or delete four conditions of the zoning agreement that were applied under DASZ 25/2010.
- The Urban Planning Division recommends supporting this application.

SITE DESCRIPTION

- The subject property is located on the northwest corner of the Barnes Street and Lee Boulevard intersection in the Fairfield Park neighbourhood of the St. Norbert Ward.
- The property is approximately **10.1 acres in area**.
- The southern portion of the property is in the process of being developed into bungalow and townhome condominiums consistent with the approvals provided under DASZ 25/2010. A foundation permit has also been issued for the construction of the easternmost building on the land zoned RMF-L.
- The site is located within the Areas of Stability – Recent Communities policy area under the Complete Communities Direction Strategy and is zoned “RMF-L” Residential Multi-Family Large and “RMF-S” Residential Multi-Family Small.



Figure 1: Air photo (flown 2009) of the subject property and surrounding area

SURROUNDING ZONING & USES (See Figure 2)

North: Vacant land zoned "RR5" Rural Residential 5.

South: Single-family homes zoned "R1-M" Residential Single-Family Medium.

East: The Real Canadian Superstore zoned "C3" Commercial Corridor and single-family homes zoned "R1-M" Residential Single-Family Medium. A church (the Grace Christian Church) is located immediately east of the northern extent of the site and is zoned RMF-S.

West: A warehouse for Agriculture and Agri-Food Canada (near the southern extent of the site) and a personal care home (Southeast Personal Care Home). Both of these properties are zoned "RMF-S" Residential Multi-Family Small.

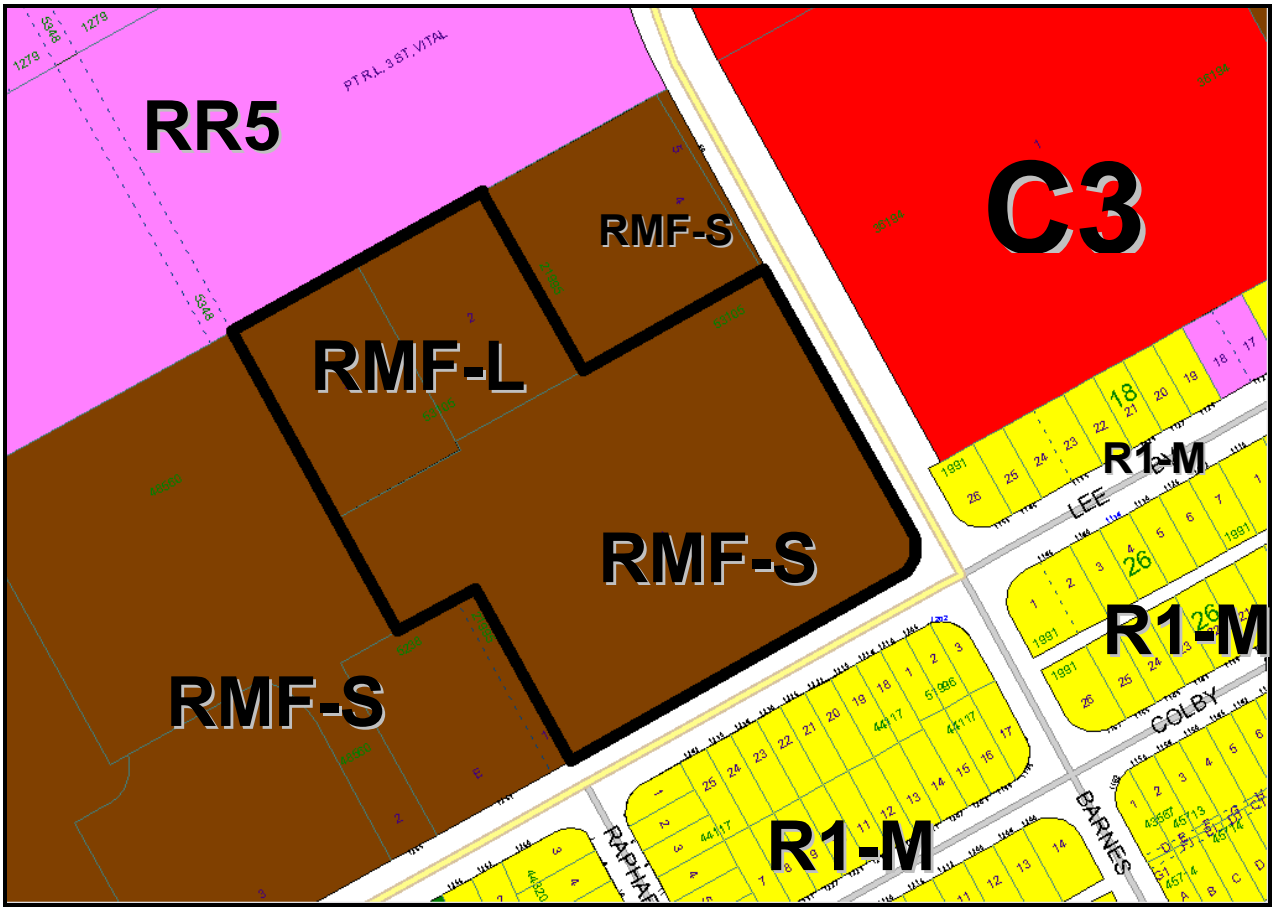


Figure 2: Zoning of the subject property and surrounding area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to amend or delete four conditions of the zoning agreement that were applied under DASZ 25/2010 as follows:

    a. Amend condition 3 from "*The maximum number of dwelling units permitted on Lot 1 of the Owner's Land is 84"* to "*The maximum number of dwelling units permitted on the land zoned "RMF-S" Residential Multi-Family Small is 86*."

    b. Delete conditions 4 & 5 that read "*The maximum number of dwelling units permitted on Lot 2 of the Owner's Land is 100*;" and, "*The maximum number of dwelling units permitted on Lot 3 of the Owner's Land is 110*" and replace these conditions with "*The maximum number of dwelling units permitted on the land zoned "RMF-L" Residential Multi-Family Large is 210.*"

    c. Amend condition 12(iii) from "*until November 8, 2014*" to *until November 8, 2012".* With this proposed amendment, clause 12 would read:

    The Owner herby undertakes and agrees that it will not commence construction of the second tower (multi-family building) on the Owner's Land until:

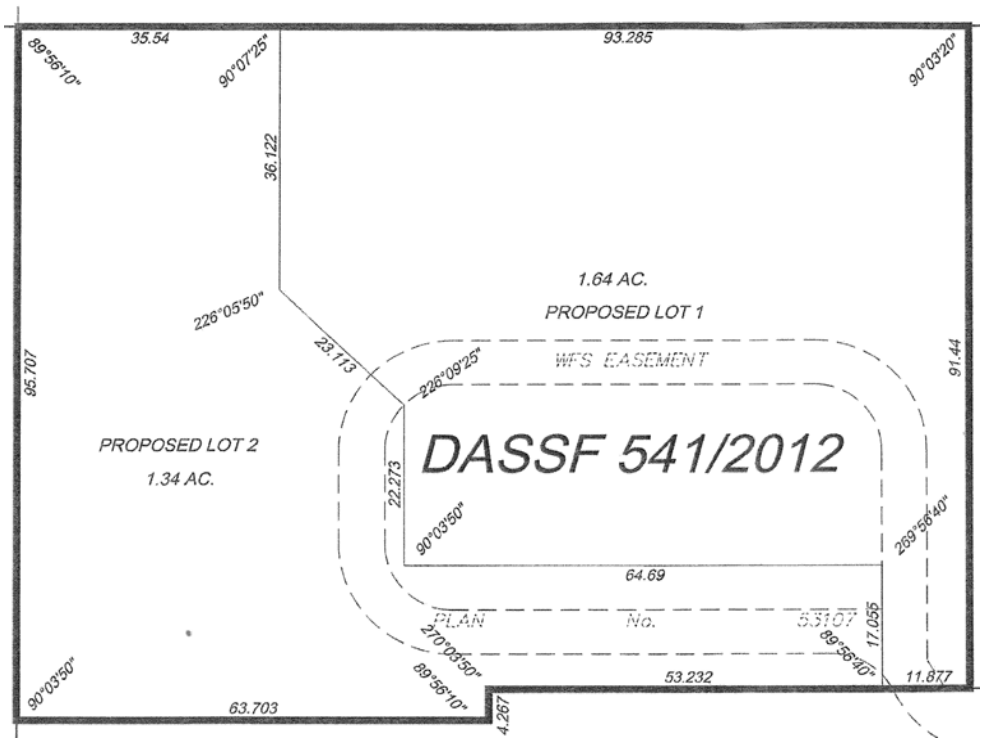
    i) the twinning of Waverley Street and the extension of Kenaston Boulevard to Waverley Street are complete; or

    iii) ***until November 8, 2012****,*

    whichever occurs first.

- It should be noted that the applicant has also submitted a short form subdivision (DASSF 541/2012) application to reconfigure Lots 2 & 3 of Plan 53105 (see image below). This reconfiguration only applies to the lands zoned RMF-L.

- The zoning agreement amendment application is intended to accommodate an 86-unit bungalow condominium and townhouse development on the land zoned RMF-S and a 210-unit development on the land zoned RMF-L. The development on the land zoned RMF-L is comprised of two, seven storey buildings.



ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is within the Areas of Stability – Recent Communities policy area. With regard to this proposal, the key policies guiding the development of Areas of Stability include:
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.
    - Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.
    - In order to meet the full life-cycle of housing needs within the community, promote a mix of housing type and tenure, such as duplexes, low rise apartments, secondary suites, semi-detached homes, townhouses.
- It should be noted that at the time of approval for DASZ 25/2010 the applicable City development plan in place was *Plan Winnipeg 2020*.

ZONING (BY-LAW 200/2006)

"RMF-S" Residential Multi-Family Small

- The RMF-S zone is intended to accommodate the development of multi-family units in neighbourhoods with medium to high residential densities. The dimensional standards

for multi-family structures in the RMF-S zone are: a minimum front yard of 20 feet; a minimum rear yard of 25 feet; a minimum side yard of 4 feet and, a maximum building height of 35 feet. The minimum lot area is 9,000 square feet and the minimum lot area per dwelling unit is 1,250 square feet.

"RMF-L" Residential Multi-Family Large

- The RMF-L zone is intended to accommodate the development of multi-family units in neighbourhoods with medium to high residential densities. The dimensional standards for multi-family structures in the RMF-L zone are: a minimum front yard of 25 feet; a minimum rear yard of 25 feet; a minimum side yard of 8 feet and, a maximum building height of 150 feet. The minimum lot area is 20,000 square feet and the minimum lot area per dwelling unit is 400 square feet.

LAND USE BY-LAW

Amendment to Zoning Agreement DASZ 25/2010

- The applicant is proposing to amend or delete four conditions of the zoning agreement that were applied under DASZ 25/2010 as explained in the "Description of the Proposed Development" section. Zoning agreement amendment applications require a public hearing, and must be approved by Council.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The applicant is ultimately requesting that 2 additional dwelling units (a total of 296 instead of 294) be constructed on the 10 acre site, and for construction of the second building on the RMF-L zoned land to begin by November 8, 2012 instead of 2 years later.
- At the time of application for DASZ 25/2010, the applicants were proposing two, ten-storey buildings on the RMF-L zoned lots (Lots 2 & 3 of Plan 53105). Lot 2 was to have a total of 100 dwelling units while Lot 3 was to have total 110 dwelling units, for a combined total of 210 dwelling units on the RMF-L zoned lots.
- The applicant has now modified the plan to develop two, seven-storey buildings on these RMF-L zoned lots. The applicant is not proposing an increase in the total number of units on the RMF-L zoned lands, just a change in the wording to allow for more flexibility regarding the number of dwelling units in each proposed building.
- The RMF-S zoned land is over 310,000 square feet in area, which under the RMF-S zoning would allow for nearly 250 dwelling units to be constructed on this lot. The applicant is requesting to slightly modify the zoning agreement in order to allow 86 instead of 84 dwelling units to be constructed on these lands. This request is modest and is actually consistent with what the applicant originally proposed for the RMF-S zoned lot under DASZ 25/2010, then asked to be changed to 84 units at the November 8, 2010 Riel Community Committee Public Hearing.
- The last proposed change to the zoning agreement would allow construction of the second proposed seven storey building to begin immediately on the RMF-L zoned lots. The applicant has submitted plans for approval to the Urban Planning Division for this development. The Urban Planning Division has no concerns regarding the requested amendment.

RECOMMENDATION

The Urban Planning Division recommends **approval** for the following reasons:

- The total number of dwelling units on the lands zoned RMF-L will not increase with the proposed amendment.
- The proposed increase from 84 to 86 dwelling units on the lot zoned RMF-S is modest and will not negatively impact the neighbourhood.
- The applicant is prepared to construct the second seven storey building on the RMF-L zoned land as soon as possible.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # ZAA 2/2012