Minute No. 565
Report – Executive Policy Committee – June 18, 2014

Item No. 2 Zoning Agreement Amendment – 90-100 Paget Street (River Heights-Fort Garry Ward) File ZAA 4/2014 [c/r DAV 111898/2014D]

COUNCIL DECISION:

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

1. That Zoning Agreement under File DASZ 35/2007, (By-law No. 159/2008), be amended as follows:

   A. That the words: "2.0 metre high berm" be deleted from Clause 3 and replaced with the words: "1.2 metre high berm".

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 35/2007, (By-law No. 159/2008) 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 – Executive Policy Committee – June 18, 2014

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 June 18, 2014, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 10, 2014, the City Centre 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 – 90 Paget Street**
File ZAA 4/2014

For submission to: **Executive Policy Committee**

Prepared by: **Andrew Poitras, Senior Committee Clerk**
City Centre Community Committee

Report date: **June 12, 2014**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 10, 2014, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That Zoning Agreement under File DASZ 35/2007, (By-law No. 159/2008), be amended as follows:

   A. That the words: "2.0 metre high berm" be deleted from Clause 3 and replaced with the words: "1.2 metre high berm".

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 35/2007, (By-law No. 159/2008) 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 City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. The applicant has worked very well with the City in figuring out a plan that works well in this area.
2. This development fits well with the other developments in the area.
3. The area can support the development and will make the space more useable.

PUBLIC HEARING SUMMARY

File: ZAA 4/2014

Before: City Centre Community Committee
Councillor Gerbasi, Chairperson
Councillor Orlikow

Public Hearing: June 10, 2014
Council Building, 510 Main Street

Applicant: FT3 Architecture (Bruce Pauls)

Subject:



APPLICANT : FT3
FILE : ZAA4/14
PROPOSAL : To amend the Zoning Agreement DASZ 35/2007 affecting the land shown outlined above by amending Condition No. 3 to read as follows: "the owner must, at no cost to the City, construct and thereafter maintain to the safisfaction of the Director, a 1.2 metre high berm no steeper than 2.5:1, west of the location for the proposed multiple family dwelling on the land prior to the issuance of occupancy permits for the said dwelling." **For information, phone Mr. M. Robinson, Planner, at 204-986-3213.**

Premises Affected: 90-100 Paget Street

Exhibits Filed:

1. Application dated April 3, 2014
2. Notification of Public Hearing dated April 16, 2014
3. Manitoba Status of Title 2351540/1
4. Letter of authorization dated March 11, 2014 from Heidi Spletzer, Castle Gardens to FT3 Architecture
5. Caveats 3736824, 3736828
6. Plans (5 pages)
7. Report from the Planning and Land Use Division dated May 8, 2014
8. Inspection Report
9. Audio Recording of representations

REPRESENTATIONS:

In Support:

Bruce Pauls, FT3 Architecture
Jerard Peters, FT3 Architecture
Heidi Spletzer

In Opposition

Nil

For Information:

Nil

For the City:

Mr. M. Robinson, Senior Planner, Planning, Property and Development Department
Mr. R. Mahé, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 4/2014

ADMINISTRATIVE REPORT

Title: ZAA 4/14 – 90-100 Paget St

Issue: For consideration at the Public Hearing to amend the Zoning Agreement to:

- Amend clause 3 to read: "1.2 metre high berm" instead of "2.0 metre high berm".

Critical Path Critical Path: City Centre 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
B. Smith	B. Thorgrimson	N/A	

RECOMMENDATIONS

1. That Zoning Agreement under File DASZ 35/2007, (By-law No. 159/2008), be amended as follows:

   A. That the words: "2.0 metre high berm" be deleted from Clause 3 and replaced with the words: "1.2 metre high berm".

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 35/2007, (By-law No. 159/2008) 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

1. The applicant wishes to amend the zoning agreement to reduce the height of the berm between the subject property and the adjoining railway lands.
2. The property has a zoning agreement caveated on the Certificate of Title by the City of Winnipeg, of which one of the clauses requires a 2.0 metre high berm west of the proposed multi-family development prior to the issuance of occupancy permits.
3. The Public Service recommends approval of amending this requirement in the zoning agreement.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Planning and Land Use Division are concurred in, the subject clause will be amended.

HISTORY

- The subject lands are zoned “RMF-M” Residential Multi-Family Medium District as per DASZ 35/2007.
- Associated with the above DASZ is a zoning agreement caveated on the title (# 2351540/1).
- Key functions of the zoning agreement include limiting certain types of signage on the site, plan approval, and the construction of a berm.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Date:	May 8, 2014
File No.	ZAA 4/14

APPENDIX 'A'

DATE:	May 8, 2014
FILE:	ZAA 4/14
RELATED FILES:	DAV 14-111898D, DAV 07-149376D, DASZ 35/07
COMMUNITY:	City Centre
NEIGHBOURHOOD #:	1.667 (Brockville)
SUBJECT:	For consideration at the Public Hearing to amend part of a clause in the Zoning Agreement pertaining to the height of a berm.
LOCATION:	90-100 Paget Street
LEGAL DESCRIPTION:	Lot 3 Plan 48361 55/56 St. Boniface
APPLICANT:	FT3 / Bruce Pauls 200-300 Waterfront Drive Wpg., MB R3B 0G5
OWNER:	Castle Gardens Ltd.
RECOMMENDATION:	Approval

REPORT SUMMARY

1. The applicant is looking to reduce the height of the berm between the proposed multi-family building and the rail right of way.
2. The Urban Planning Division recommends the application be approved.
3. The Hydro R.O.W features a swale that effectively reduces the height requirement of the berm.

SITE DESCRIPTION

Land Use and Zoning

- The subject site, which is zoned "RMF-M" Residential Multi-Family Medium Density, is located on the north side of Sterling Lyon between Paget Street to the east and the CPR and Hydro R.O.W's to the west in the Brockville neighbourhood of the River Heights – Fort Garry ward.



Figure 1: Subject Site and Surrounding Land Uses (flown 2012)

DESCRIPTION OF PROPOSED DEVELOPMENT

1. Through this application, the applicant is looking to reduce the requirement for the height of a berm between the proposed multi-family residential dwelling and the rail right-of-way.
2. If the applicant is successful in modifying the berm height requirement they will also need to obtain a variance to reduce minimum yard setback requirements, building height requirements, and accessory parking area requirements (this is the subject of associated File # DAV 14-111898).
3. The applicant also requires that the plans be approved by the Director of Planning as per the zoning agreement associated with DASZ 35/2007.

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. Key policies guiding development within 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 development.

ZONING AGREEMENT

The subject property contains a zoning agreement that was created when the property was rezoned and subdivided to "RMF-M" in 2007. The zoning agreement contains a number of clauses including the required height of a berm, of which the applicant is attempting to amend. Specifically Clause 3 of the zoning agreement requires the berm to be:

"2.0 metre high berm"

It is the above wording the applicant is requesting to have amended to state: "1.2 metre".

DISCUSSION

The application is being supported on the basis of unique site characteristics. Specifically that:

1. The Hydro R.O.W. features a swale that effectively reduces the requirement for the berm.
2. The site has been designed so that the proposed building will be at a distance of more than 50.0 metres from the rail line.
3. The proposed berm meets the intent of the Federation of Canadian Municipalities Proximity Guidelines.

RECOMMENDATION

The Urban Planning Division recommends the application be approved because:

1. The Hydro R.O.W. features a swale that effectively reduces the requirement for the berm.
2. The proposed berm meets the intent of the Federation of Canadian Municipalities Proximity Guidelines.

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

Report Prepared By: Richard Mahé
PPD File # ZAA 4/14