Minutes - Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – May 25, 2015

PUBLIC HEARINGS

Item No. 3 Appeal - Variance – 25 Fort Street
(Fort Rouge-East Fort Garry Ward)
File DAV 117142A/2015B [c/r DCU 117155A/2015B]

STANDING COMMITTEE DECISION:

The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management allowed the appeal in part, did not concur in the decision of the Director of Planning, Property and Development, and approved a Variance on "the land" for the establishment of a Parking, non-accessory off-street at grade, use to permit the following:

1. no van accessible parking space instead of 1 van accessible parking space;
2. gravel surfacing instead of asphalt, concrete, concrete pavers, or combination thereof;
3. no drainage system;
4. screening of parking facility with a wooden fence, said material not permitted,

subject to the following condition:

1. That the Order shall expire on May 30, 2017.

Further, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management cancelled Variance Order DAV 117142/2015B.

DECISION MAKING HISTORY:

The Winnipeg Public Service advised that all statutory requirements with respect to this appeal have been complied with.

Moved by Councillor Orlikow,

That the report of the Winnipeg Public Service be taken as read.

Carried

Moved by Councillor Orlikow,

That the receipt of public representations be concluded.

Carried

Moved by Councillor Orlikow,

That in accordance with Subsection 247(3) of The City of Winnipeg Charter, the Variance,

(a) [√] is consistent [ ] is not consistent
with Plan Winnipeg, and any applicable secondary plan;

(b) [√] does not create [ ] does create
a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(c) [√] is [ ] is not
the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

(d) [√] is [ ] is not
compatible with the area in which the property to be affected is situated.

Supporting Comments:

1. This is a charity project.
2. The parking lot is existing.
3. The applicant knows that the parking is to be done within 2 years.
4. The streetscaping required creates a balance of what we envision for the downtown

Carried

DECISION MAKING HISTORY (continued):

Moved by Councillor Orlikow,

That the appeal be allowed in part and the decision of the Director of Planning, Property and Development not be concurred in and Variance Order DAV 117142/2015B be cancelled.

Carried

Moved by Councillor Orlikow,

That the public hearing with respect to this appeal be concluded.

Carried

STANDING COMMITTEE RECOMMENDATION:

On May 7, 2015, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management did not hear any representation on the application and adjourned the Appeal Hearing to its meeting on May 25, 2015 at 9:30 a.m. in the Council Building, 510 Main Street.

Winnipeg

THE CITY OF WINNIPEG
VARIANCE APPEAL ORDER
STANDING POLICY COMMITTEE ON DOWNTOWN DEVELOPMENT, HERITAGE AND RIVERBANK MANAGEMENT

DAV 117142A/2015B [c/r DCU 117155A/2015B]

Before:	Standing Policy Committee on Downtown Development, Heritage and Riverbank Management Councillor Mayes, Chairperson Councillor Browaty Councillor Gerbasi Councillor Orlikow
Hearing:	May 25, 2015 May 7, 2015 Council Building, 510 Main Street
Applicant:	Jerry Gray (Friends of Upper Fort Garry)
Premises Affected:	25 Fort Street
Legal Description:	SHOWN ON MISC PL NO CC 6832/3 LOT 56,59/61 PLAN 23855 1 ST J, hereinafter called “the land”
Property Zoned:	Multiple Use Sector
Nature of Application:	To vary the "Multiple Use Sector" regulations of Downtown Zoning By-Law No. 100/2004 for the establishment of a Parking, non-accessory off-street at grade, use to permit the following: 1. no van accessible parking space instead of 1 van accessible parking space; 2. gravel surfacing instead of asphalt, concrete, concrete pavers, or combination thereof; 3. no drainage system;

4. insufficient street edge landscaping;
5. screening of parking facility with a wooden fence, said material not permitted

ORDER MADE BY THE DIRECTOR OF PLANNING, PROPERTY AND DEVELOPMENT:

The Director of Planning Property and Development rejected a Variance, File DAV 117142/2015B, to Jerry Gray (Friends of Upper Fort Garry), for premises located at 25 Fort Street, for the establishment of a Parking, non-accessory off-street at grade, use to permit the following:

1. no van accessible parking space instead of 1 van accessible parking space;
2. gravel surfacing instead of asphalt, concrete, concrete pavers, or combination thereof;
3. no drainage system;
4. insufficient street edge landscaping;
5. screening of parking facility with a wooden fence, said material not permitted

Pursuant to the provisions of The City of Winnipeg Charter, Jerry Gray, appealed the Variance Order DAV 117142/2015B and after Notice, the appeal was heard on May 25, 2015.

Upon consideration of the evidence adduced and submissions made, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management is of the opinion that, subject to the condition(s) imposed, if any, this Appeal Order does meet the statutory criteria as outlined in Subsection 247(3) of The City of Winnipeg Charter, in that it: ✓

(a) [√] is consistent [ ] is not consistent
with Plan Winnipeg, and any applicable secondary plan;

(b) [√] does not create [ ] does create
a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(c) [√] is [ ] is not
the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

(d) [√] is [ ] is not
compatible with the area in which the property to be affected is situated.

Supporting Comments:

1. This is a charity project.
2. The parking lot is existing.
3. The applicant knows that the parking is to be done within 2 years.
4. The streetscaping required creates a balance of what we envision for the downtown

ORDER:

The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management orders:

1. That the appeal is allowed in part and the provisions of the "Multiple Use Sector" regulations of Downtown Zoning By-law No. 100/2004 are varied on “the land” for the establishment of a Parking, non-accessory off-street at grade, use to permit the following:

   A. no van accessible parking space instead of 1 van accessible parking space;
   B. gravel surfacing instead of asphalt, concrete, concrete pavers, or combination thereof;
   C. no drainage system;
   D. screening of parking facility with a wooden fence, said material not permitted,

   subject to the following condition(s) necessary to ensure conformity with the statutory criteria of The City of Winnipeg Charter:

   A. That this Order shall expire on May 30, 2017.

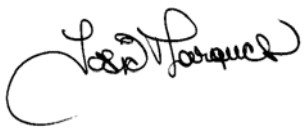
2. That Variance Order DAV 117142/2015B dated April 1, 2015, is cancelled.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

NOTE: VARIANCE REQUESTED HAS BEEN MODIFIED.

DATE OF ORDER: May 26, 2015

CERTIFIED BY:



Josie Marques
Senior Committee Clerk

THE FOLLOWING PERSONS MADE REPRESENTATIONS:

In Support of the Appeal:

Jerry Gray
Garry Hilderman
Penny McMillan
Gord Steeves

In Opposition to the Appeal:

Nil

For Information on the Appeal:

Cindy Tugwell

For the City:

Mr. M. Pittet, Acting Director, Planning, Property and Development Department
Mr. B. Smith, Chief Planner, Planning, Property and Development Department
Mr. J. Kiernan, Manager Urban Design, Planning, Property and Development Department
Mr. K. Kowalke, Senior Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DAV 117142A/2015B

1. Order DAV 117142/2015B dated April 1, 2015
2. Notice of Appeal filed by Jerry Gray, received April 14, 2015
3. Notification of Public Hearing dated April 21, 2015
4. Manitoba Status of Titles 2660814/1, 2660817/1 and 2660818/1
5. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
6. Site plan
7. Plan, Sheet 1, for File DAV 117142/2015B dated March 23, 2015
8. Communication dated May 1, 2015 from the Winnipeg Public Service, requesting that the Appeal Hearing be adjourned to May 25, 2015
9. Inspection Report
10. Notice of Adjournment dated May 7, 2015
11. Report from the Urban Planning Division dated April 24, 2015
12. Brochure titled "Upper Fort Garry Provincial Park", in support of the appeal, submitted by the appellant at the hearing

Exhibit " 11 " referred to in File DAV 117142A/2015B

ADMINISTRATIVE REPORT

Title: DAV 15-117142/B – 25 Fort Street Public Hearing

Critical Path: Standing Policy Committee on Downtown Development, Heritage and Riverbank Management

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Smith	M. Pittet	N/A	M. Jack A/COO

RECOMMENDATIONS

The Winnipeg Public Service recommends that the appeal be denied and the decision of the Director of Planning, Property and Development Department dated April 1, 2015, be upheld.

REASON FOR THE REPORT

- A portion of Upper Fort Garry Provincial Park, slated for a future interpretive centre, is now proposed to be used for interim surface parking. Because it is interim, the applicant is also seeking relief from the design standards in the zoning by-law in order to save costs.
- The Standing Policy Committee on Downtown Development, Heritage and Riverbank Management is the delegated hearing body for appeals of the Public Service's decisions on variance applications in Downtown Winnipeg.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the associated conditional use (DCU 15-117155/B) is approved and the recommendation of the Public Service with regard to this variance application is concurred in, the proponents will need to redesign the proposed parking lot to comply with the zoning by-law.

HISTORY

- The subject land at the corner of Fort Street and Assiniboine Avenue was formerly City of Winnipeg land that provided parking for city employees and customers for 30 Fort Street and 100 Main Street. The 100 Main building and parking lot was declared surplus in 2006.
- After initially entering into an agreement to sell the site for an apartment proposal, City Council changed course and sold the site to the Friends of Upper Fort Garry for the creation of a provincial park in 2009. One of the stipulations of the sale was that work on both the park and the interpretive centre was to be complete within five years.
- In 2012, Friends of Upper Fort Garry began operating a commercial parking lot in a portion of the site before zoning enforcement was dispatched.
- Work on the public open space portion of the site was substantially completed last summer, however it remains closed to the public. The southwest portion of the site, intended for the interpretive centre remains vacant other than some construction equipment.
- In March, the proponents applied to establish a non-accessory surface parking lot at the southwest end of the site. The application was rejected by the Director of Planning, Property and Development on April 1, 2015.

DISCUSSION

File: DAV 15-117142/B
Related Files: DCU 15-117155/B

Community: City Centre
Neighbourhood #: 1.165

Subject: To vary the "Multiple Use Sector" regulations of Downtown Zoning By-Law No. 100/2004 for the establishment of a Parking, non-accessory off-street at grade, use to permit the following:

1) no van accessible parking space instead of 1 van accessible parking space;
2) gravel surfacing instead of asphalt, concrete, concrete pavers, or combination thereof;
3) no drainage system;
4) insufficient street edge landscaping;
5) screening of parking facility with a wooden fence, said material not permitted

Applicant: Jerry Gray, Friends of Upper Fort Garry
509-62 Albert Street
Winnipeg, MB R3B 1G4

Owners: Her Majesty the Queen in right of the Province of Manitoba

Criteria for Approval
Pursuant to Section 247(3) of the City of Winnipeg Charter, a Variance application can be approved if the proposed development:

(a) is consistent with Plan Winnipeg and any applicable secondary plan;
(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
(c) is not the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
(d) is compatible with the area in which the property to be affected is situated.

Site Description:

- The subject property is the construction site of the future Upper Fort Garry Provincial Park. The entire park site is approximately three acres, with the proposed parking area occupying approximately half an acre at the corner of Fort Street and Assiniboine Avenue in the Fort Rouge – East Fort Garry Ward.



Figure 1: Google image of the subject property and surrounding area

Project Description:
Due to a shortage in fundraising, construction on the interpretive centre is not anticipated for a couple of years. The portion of Upper Fort Garry Provincial Park, slated for a future interpretive centre, is now contemplated for interim surface parking. Because it is interim, the applicant is also seeking relief from the design standards in the zoning by-law in order to save costs.

Analysis and Issues:

OurWinnipeg

Recent updates to the zoning by-law "foster an age-friendly and accessible urban environment", in support of *OurWinnipeg* Section 03-1. There is an expectation that all new or redeveloped parking facilities will accommodate accessibility.

Downtown Parking Strategy

The Downtown Parking Strategy, endorsed by City Council on December 14, 2011 in support of the Complete Communities Direction Strategy, seeks to repurpose surface parking lots in our Downtown wherever possible for higher and better use.

- *Encourage the redevelopment of surface lots for residential, commercial or employment uses.*

Where it is impractical to repurpose a surface parking lot for development, the Downtown Parking Strategy directs the Winnipeg Public Service to uphold a higher design standard for surface parking lots as per the following policy direction:

- *Pursue parking lot design standards, as part of a citywide urban design strategy, aimed at improving safety and security, neighbourhood compatibility, contextual sensitivity, and environmental sustainability. New zoning standards for landscaping, screening, fencing, lighting, signage, etc. could be established that existing lots must meet within a set timeframe.*

Downtown Winnipeg Zoning By-Law

On May 27, 2014, Council adopted changes to the *Downtown Winnipeg Zoning By-Law* to ensure better alignment with the Complete Communities Direction Strategy and the Downtown Parking Strategy. Those changes included:

- Where surface or structured parking is being constructed, or where an existing parking facility is being revamped, 4% of parking stalls meet universal accessibility standards and be signed accordingly. One *van accessible* space must also be provided for lots of over 25 spaces.
- Screening of parking facilities must be provided where parking spaces are adjacent to public road frontages (excluding lanes). Screening must be comprised of a minimum 2.5 foot high building wall, fence of brick or decorative metal construction, or a combination of fencing and landscaping.
- Surface parking areas adjacent to a public street must contain a minimum of one deciduous tree for each 20 feet of linear street frontage.

The City of Winnipeg does not permit gravel parking anywhere in the City for several reasons. Sand and dust is picked up by the wind causing nuisance to pedestrians and surrounding

properties. Gravel is tracked onto the right-of-way increasing the need for street cleaning. Gravel also migrates into stormwater drains increasing the costs of system maintenance. A lack of internalized drainage results in stormwater running across the public sidewalk. In spring and fall, this can lead to ice buildup on the sidewalk. The subject property does not have access to a rear lane where drainage can be directed.

Reasons for Recommendations:
In the context of Section 247(3), the Winnipeg Public Service recommends **rejection** for the following reasons:

- The proposal does not advance *OurWinnipeg* or the *Complete Communities Direction Strategy.*
- The proposal does not foster an age-friendly and accessible urban environment.
- Sand and dust poses a substantial adverse effect on pedestrians and neighbouring properties.
- Sand and gravel migration increases road and stormwater system maintenance costs.
- Improper drainage leads to water and ice on the public sidewalk.
- The omission of the required street edge landscaping does not support compatibilty with the character of the area.

FINANCIAL IMPACT

Financial Impact Statement **Date:** April 23, 2015

Project Name:

DAV 15-117142/B – 25 Fort Street Public Hearing

COMMENTS:

There are no financial implications associated with the recommendations contained in this report.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this report there was consultation with:

- N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Kurtis Kowalke
Date:	April 24, 2015
File No.	DAV 15-117142/B

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UD 2015-029

Exhibit " 8 " referred to in File DAV 117142A/2015B

From: Smith, Braden
Sent: Friday, May 01, 2015 3:39 PM
To: Marques, Josie; Lemoine, Marc
Cc: Pittet, Marc
Subject: 25 Fort Street - Appeal Hearing

Hello Josie;
I am requesting that the upcoming appeal hearings for 25 Fort Street be adjourned to the 25 May meeting of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management.

The very best,
Braden

Braden Smith, MCIP
Chief Planner
Planning, Property and Development
City of Winnipeg
15-30 Fort Street
Winnipeg, MB R3C 4X5
T: 204.986.2699
F: 204.986.7524
E: bradensmith@winnipeg.ca
W: www.winnipeg.ca/ppd

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Exhibit " 7 " referred to in File DAV 117142A/2015B

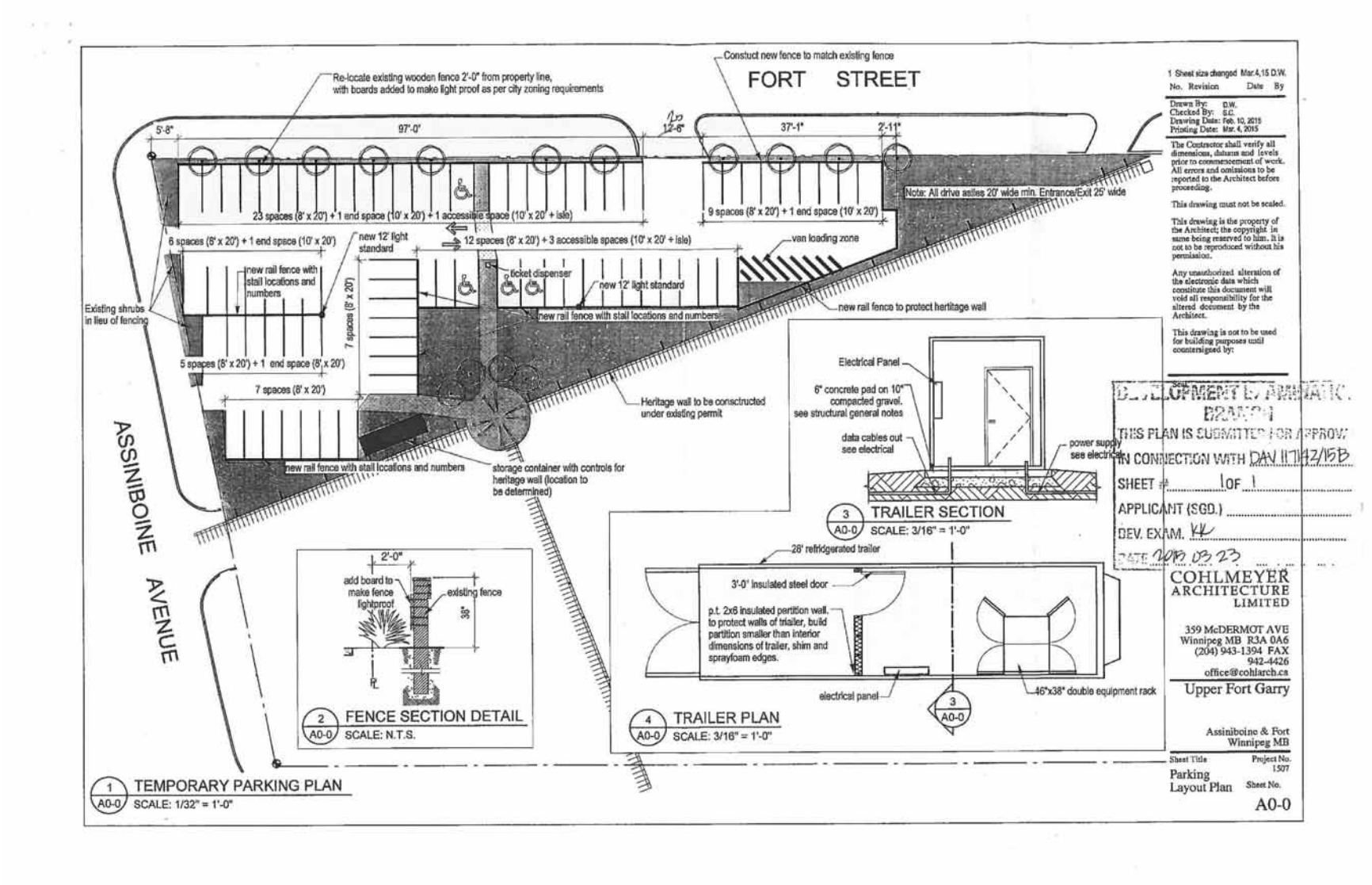

Exhibit " 2 " referred to in File DAV 117142A/2015B

CITY CLERKS WPG '15 APR 14 12:16

FRIENDS OF | AMIS DE
UPPER FORT GARRY

Honorary Patrons
Rt. Hon. Edward Schreyer, P.C., C.C., O.M.
Hon. Gary Filmon, P.C., O.C., O.M.
Richard A.N. Bonnycastle

Founding Chair
Hon. Peter M. Liba, C.M., O.M. (1940 - 2007)

Founding Directors
Harold Buchwald, C.M., Q.C. (1928 - 2008)
Dr. Bill Norrie, C.M., O.M., Q.C. (1929 - 2012)

Board of Directors
Chair
Dr. Jerry L. Gray
Directors
Jim August
Lawrie Barkwell
R.W. (Bob) Cunningham
Hon. Gary Filmon, P.C., O.C., O.M.
Dr. Gerald Friesen
Elaine Goldie
Garry Hilderman, C.M.
Michel D. Lagacé
Hon. Otto Lang, P.C., O.C., Q.C.
Penny McMillan
Cindy Tugwell
Honorary Board Members
Dee Buchwald
Shirley Liba

April 13, 2015

City Clerk
c/o Appeals Committee
City of Winnipeg
510 Main Street
Winnipeg, Manitoba
R3B 1B9

Re: Conditional Use Application #15-117155/B and
Variance Order #15/117142/B

The Friends of Upper Fort Garry wish to appeal the City ruling regarding the above noted applications.

Sincerely,

Jerry Gray, Chair

JLG:ms

Exhibit " 1 " referred to in File DAV 117142A/2015B

DAV 15-117142/B

APPLICANT: Jerry Gray Friends of Upper Fort Garry
259 - 393 PORTAGE AVE
WINNIPEG MB R3B 3H6

PREMISES AFFECTED: 25 Fort ST
LEGAL DESCRIPTION: SHOWN ON MISC PL NO CC 6832/3 LOT 56,59/61 PLAN 23855 1 ST J

hereinafter called "the land".
PROPERTY ZONED: Multiple Use Sector
ZONING ATLAS SHEET: AA25
NATURE OF APPLICATION:

To vary the "Multiple Use Sector" regulations of Downtown Zoning By-Law No. 100/2004 for the establishment of a Parking, non-accessory off-street at grade, use to permit the following:
1) no van accessible parking space instead of 1 van accessible parking space;
2) gravel surfacing instead of asphalt, concrete, concrete pavers, or combination thereof;
3) no drainage system;
4) insufficient street edge landscaping;
5) screening of parking facility with a wooden fence, said material not permitted

It is the opinion of the Director of Planning, Property and Development Department that this application does not meet the statutory criteria of the City of Winnipeg Charter in that it:

(a) is not consistent with Plan Winnipeg and any applicable secondary plan;
(b) does create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
(c) is not the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
(d) is not compatible with the area in which the property to be affected is situated.

C.W. Charter Subsection 247(3)

ORDER:
RE: 25 Fort ST

The Director of Planning, Property and Development Department hereby orders that the provisions of the "M" dimensional standards of Zoning By-Law No. 100/2004 and amendments thereto for the the establishment of a Parking, non-accessory off-street at grade, use to permit the following:

1) no van accessible parking space instead of 1 van accessible parking space;
2) gravel surfacing instead of asphalt, concrete, concrete pavers, or combination thereof;
3) no drainage system;
4) insufficient street edge landscaping;
5) screening of parking facility with a wooden fence, said material not permitted
are hereby REJECTED.

DATE OF ORDER: April 1, 2015 CERTIFIED BY:

_____
for Director Planning, Property and
Development Department

HOW TO APPEAL

You must appeal against either the whole of this order or part(s) of it by filing a letter of appeal. This appeal will be heard by the Appeals Committee. That letter must:

(a) be addressed as set out below,

(b) be received at that office not later than 4:30 p.m. on April 15, 2015,
[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(c) refer to Variance Order No. DAV 15-117142/B, give brief reasons and describe whether you appeal the whole order or only part(s) of it.

You can attend the appeal hearing and speak on issues raised in someone else's appeal; but the Appeals Committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address: City Clerk, City of Winnipeg
c/o Standing Policy Committee on Downtown Development,
Heritage and Riverbank Management
510 Main Street
Winnipeg, MB, R3B 1B9
Fax 947-3452
Email: clk-appeals@winnipeg.ca