

TITLE: CONDITIONAL USE; VARIANCE 520 – 11TH STREET EAST OWNER: SHIRLEY AND WILLIAM CONRAD MCCLURE APPLICANT: BRANDON CHRISTIAN MINISTRY EL SHADDAI INC. (WALTHER SMITH RODAS)		
PRESENTER: Andrew Mok, BES MCIP RPP		Page 1 of 4
DEPARTMENT: Planning, Property & Buildings	ATTACHMENTS: A. Application related documents B. Map, air photo & drawings	
CLEARANCES: Chief Planner	MEETING DATE: September 20, 2017	
APPROVALS: <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">  Community Planner Sept. 13, 2017 Date </div> <div style="text-align: center;">  Chief Planner Sept. 13, 2017 Date </div> </div>		

REQUEST:

The applicant, Walther Smith Rodas of Brandon Christian Ministry El Shaddai Inc., on behalf of the property owner, Shirley and William Conrad McClure, is applying for the following to allow for a place of worship for a property located at 520 – 11th Street East in the Industrial Restricted (IR) Zone as per the City of Brandon Zoning By-law No. 7124 (Zoning By-law):

- Conditional Use—to allow for a place of worship
- Variance—to vary Table 4 under subsection 26(a) to reduce the number of required parking spaces from ten (10) to zero (0)

BACKGROUND:

Development Context

The subject site currently has an unoccupied building, and is located on the west side of 11th Street East south of Victoria Avenue. The site is surrounded by a mix of commercial and low-intensity industrial uses to the north, southeast, south and west, and a dog park to the east. There are also low-density residential uses further north across Victoria Avenue. Access to the site is provided by 11th Street East.

History

The building on the subject site was built in 1977. It has been used for a variety of commercial uses, such as a business furniture store and a dog grooming and training facility.

ANALYSIS:

The applicant proposes to establish a place of worship on the subject site. Worshippers will park in the adjacent property to the north at 514 – 11th Street East, which is also owned by the owners of the subject site.

CONDITIONAL USE***Consistency with Part 7, Section 106(1)(b) of The Planning Act and Demonstration that the Use:******1. Will be compatible with the general nature of the surrounding area;***

The surrounding area consists of a mix of commercial and low-intensity industrial uses, such as a restaurant, offices and an HVAC sales and service business, and the subject site is in close proximity to residential areas. Existing places of worship are located in both residential and commercial areas. The proposal therefore is compatible with the general nature of the surrounding area.

2. Will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area; and

A place of worship is an interior use and shall not produce nuisances typically found in industrial areas. Any increase in traffic from the use should not coincide with typical business hours of surrounding businesses. The proposal therefore will not negatively affect the surrounding area.

3. Is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law

The subject site is designated “Industrial” in the Brandon & Area Planning District Development Plan 2013 (“Development Plan”). Policy 3.2.1 of the Development Plan allows for compatible commercial development to occur in Industrial areas. The proposal therefore conforms to the Development Plan.

Pursuant to the Zoning By-law, the proposed use requires ten (10) parking spaces, but there is insufficient room on site to accommodate the parking spaces. The applicant concurrently applied for a parking variance, of which analysis is provided on the following page. Furthermore, the northwest part of the building on the subject site encroaches into 514 – 11th Street East north of the site, bringing the building into non-compliance with the Zoning By-law and the Manitoba Building Code. The encroachment can be resolved by consolidating the titles of both sites. Provided the associated parking variance is approved and the titles of the subject site and 514 – 11th Street East are consolidated, the proposed use conforms to the Zoning By-law.

VARIANCE***Consistency with Part 6, Section 97(1)(b) of The Planning Act and Demonstration that the Variance:******1. Will be compatible with the general nature of the surrounding area;***

The proposed parking arrangement is consistent with the sites immediately surrounding the subject site. The other sites vary in land area and therefore have a mix of on-site and off-site parking. The proposal is therefore compatible with the general nature of the surrounding area.

2. Will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area;

514 – 11th Street East can accommodate all parking for the place of worship. Even with the consolidation of titles of the subject site and 514 – 11th Street East, the variance is still required due to existing uses at 514 – 11th Street East. However, places of worship typically see peak parking requirements on evenings and weekends, whereas the industrial uses at 514 – 11th Street East and in the surrounding area typically see peak parking requirements on weekdays.

The site currently has fencing, vehicles and other materials placed in the undeveloped lane right-of-way west of the subject site and along the west and north sides of 514 – 11th Street East. Provided these things are removed from the lane, the proposal will not have negative effects on the surrounding area.

3. Is 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

The applicant is proposing to establish a place of worship in an existing building built prior to current Zoning By-law regulations, and the applicant proposes that 514 – 11th Street East immediately north of the subject site will accommodate all parking for the use. The variance request therefore is the minimum modification of the Zoning by-law required to relieve its injurious effect on the site.

4. Is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law

The analysis for this criterion is already set out under the conditional use portion of this report. Provided the associated conditional use application is approved and the titles of the subject site and 514 – 11th Street East are consolidated, the proposal conforms to the Zoning By-law.

Commenting Agencies

All comments have been addressed and summarized below.

City of Brandon

The City of Brandon further advises that the applicant or owner must complete the following prior to the issuance of a building permit for the building addition:

- The removal of materials, from the lane west and north of the subject site and 514 – 11th Street East
- Consolidation of titles for 514 and 520 – 11th Street East to resolve the issue of the building straddling over two properties

Utilities

Manitoba Hydro advises there are Centra Gas Manitoba Ltd. Facilities in the area, and that the applicant should “Call Before You Dig” prior to constructing the building addition.

Notification

As required under s. 169 of The Planning Act, notice of this Public Hearing regarding this application was sent to owners of property within 100 metres (328 feet) of the subject property and notice posters were posted on the property.

Public Outreach

In accordance with section 13 of the Zoning By-law, the applicant met or phoned nearby businesses on August 14, 2017. As of the writing of this report, the Planning, Property & Buildings Department has not received representation in favour of or in opposition to this application.

RECOMMENDATIONS:

That the combined Public Hearing for Conditional Use Application C-10-17-B and Variance Application V-11-17-B at 520 – 11th Street East be concluded.

Conditional Use

That Conditional Use Application C-10-17-B to allow for a place of worship in the IR Industrial Restricted Zone be approved at 520 – 11th Street East (Lots 16/17, Block 2, Plan 10 BLTO) in accordance with the intent of the application “Attachment A-1”, the attached letter of intent “Attachment A-3”, subject to the owner or successor, prior to the issuance of a building permit:

1. Consolidating the titles of the subject site and 514 – 11th Street East (Lots 11/15, Block 2, Plan 10 BLTO); and
2. Removing all materials associated with the subject site from the lane in Block 2, Plan 10 BLTO.

Variance

That Variance Application V-11-17-B to vary Table 4 under subsection 26(a) of the City of Brandon Zoning By-law No. 7124 to reduce the number of required parking spaces from ten (10) to zero (0) to accommodate a place of worship in the IR Industrial Restricted Zone be approved at 520 – 11th Street East (Lots 16/17, Block 2, Plan 10 BLTO) in accordance with the intent of the application “Attachment A-2”, the attached letter of intent “Attachment A-3”.