


TITLE: VARIANCE 4100 GRAND VALLEY ROAD OWNERS: MARK & JOAN KOVITCH APPLICANT: MARK KOVITCH		
MEETING DATE: January 15, 2020		Page 1 of 6
DEPARTMENT: Planning & Buildings	ATTACHMENTS: A. Application related documents B. Map, air photo & drawings C. Public Consultation Report D. Development Review Group Report	
PRESENTER: Andrew Mok, MCIP RPP	MANAGER: Ryan Nickel, Chief Planner	

RECOMMENDATIONS:

That Variance Application V-03-18-B to

1. Expand the lawful non-conforming use (i.e. existing campground)
2. Vary Section 69 Floodplain Overlay Zone to allow for portable structures within the diked area

in the Parks and Recreation (PR) and Open Space (OS) Zones be approved at 4100 Grand Valley Road (Parcel A, Plan 1706 BLTO, Parcel A, Plan 32096 BLTO, Parcel A/B, Plan 1097 BLTO exc Road Plan 1328 BLTO, Parcel G, Plan 31788 BLTO, Pt. SW ¼ 28-10-19 WPM, Pt. NE ¼ 21-10-19 WPM) in accordance with the letter of intent “Attachment A-3 and A-4”, and the site plan “Attachment B-2”, subject to the owner or successor entering into a development agreement with the City of Brandon with the following conditions:

1. The Developer agrees the Heritage Resource Impact Assessment investigation is to be implemented based on consultations with the appropriate communities and stakeholders.
2. The Developer agrees that the Heritage Resource Impact Assessment report of findings be submitted to Manitoba Sport, Culture and Heritage, Historic Resources Branch for review and written confirmation that a satisfactory Heritage Resource Impact Assessment has been undertaken prior to the start of any development.
3. The Developer agrees the campground will not be occupied by the public when the Turtle Crossing berm provides less than two feet of freeboard above the level of the Assiniboine River.
4. The Developer agrees the minimum elevation level of the proposed berm must be 362.2m, as calculated to allow 0.6m of freeboard above the 1:200 design flood level.
5. The Developer agrees to install a fence around the gravesite and identify the area as the “Brandon Residential School gravesite” in accordance with the 2019 Heritage Impact Assessment, conducted by Finlay Heritage Consulting Inc. The fenced area shall be surveyed

- by a Manitoba Land Surveyor and verified by an archaeologist licenced to practice in Manitoba.
6. The Developer agrees, when necessary, to cooperate fully with the City of Brandon, the Government of Manitoba, the Government of Canada, and/or Indigenous organizations for the exhumation of the bodies in the gravesites for re-burial elsewhere, including but not limited to the granting of access to said organizations, or agents thereof, to complete the exhumation of the bodies. Once exhumation is complete, the Developer may remove the fence and revert to use as they see fit.
 7. The Developer agrees to design an emergency warning process and life safety evacuation plan to alert campers / visitors of the campground within 10 minutes of an emergency event that requires evacuation of the site. The warning process and life safety evacuation plan is to be reviewed and accepted by the City Of Brandon's Emergency Coordinator.
 8. The Developers agrees to be responsible of notifying all campers / visitors of the campground of the emergency warning process and life safety evacuation plan. The method of notification is to be reviewed and accepted by the City of Brandon's Emergency Coordinator.
 9. The Developer agrees that no structures or camping trailers will be permitted outside of the berm protection area and that any proposed uses outside of the berm protection area shall be limited to tents only.
 10. The Developer agrees that any residential use of the site, including mobile and modular homes is prohibited, save and except for any residential use previously approved to this variance application.
 11. The Developer agrees that should any permanent public amenity / multipurpose accessory structures be proposed within the campground, that those structures be flood proofed and designed by a professional Engineer licensed to practice in the Province of Manitoba.
 12. The Developer agrees to execute an easement agreement with the City of Brandon for the existing public 400mm watermain and pump house located at the east end of the Lands.
 13. The Developer agrees to construct the gravel road required to access the pump house. The construction of the road must be designed to accommodate heavy truck traffic and include a turnaround with a minimum 13m turning radius.
 14. The Developer agrees to provide proof of ownership or easement demonstrating they have legal right to all the lands in which the berm will be located.
 15. The Developer agrees to provide drainage information and trip generation projections to Manitoba Infrastructure, Engineering and Operations Division for review and acceptance.
 16. The Developer agrees to obtain all required approvals from appropriate governing agencies and provide such approvals to the City of Brandon prior to the issuance of any development/building permits.
 17. The Developer agrees to save harmless the City by way of inclusion of save harmless clauses in the development agreement.

and that Administration be authorized to prepare a Development Agreement containing all conditions and requirements to protect the City's interests in accordance with any procedures, policies, by-laws and Acts.

BACKGROUND:

Request

The owner, Mark Kovitch, is applying to vary the City of Brandon Zoning By-law No. 7124 to expand the existing campground use for the property located at 4100 Grand Valley Road in the PR and OS Zones as follows:

1. To expand the lawful non-conforming use (i.e. existing campground)
2. To vary Section 69 Floodplain Overlay Zone to allow for event support structures (e.g. food prep & washrooms) within the diked area

Approval of this application will allow for up to 275 camping and seasonal lots. The total number of lots will be determined by the construction and extent of placement of the proposed engineered berm and the fencing around the Brandon Indian Residential School gravesite.

Development Context

The site is partially developed as a campground (known as Turtle Crossing Campground), and is located at the western edge of the city and south of Grand Valley Road (PR 459). The site is located in the floodplain and flooded as recently as in 2011 and 2014. The site is relatively flat and heavily vegetated with multiple trailers and modular structures in the existing campground area. An internal road network is located on the site along with amenities from the previous Curran Park, including basketball courts and a concrete fountain.

There are existing City of Brandon ("the City") wastewater lines within the site that feed into a low pressure sewer system, as well as a pump house to the east, not used for the operation of Turtle Crossing campground. Uses surrounding the site include predominantly agricultural to the west, the federal agriculture research station to the north and east, and the Assiniboine River to the south. The City's Wheat City Golf Course is further south across the Assiniboine River. There is one access to the site from the Grand Valley Road to the north.

History

Documentation has revealed that the site was previously owned by the federal government and was used as an extension of the former Brandon Indian Residential School site to the north. Manitoba Historical Resources Branch commented that the proposed campground expansion is adjacent to an historic cemetery attributed to the Brandon Indian Residential School. The City purchased the site from the federal government, including the site in the City's public park program.

The site was initially named Suburban Park and later renamed Curran Park. In 2001, due to annual flooding, high maintenance costs, and increased demand for additional services, the City closed and sold the park. The existing site owner obtained conditional use approval in 2009 to establish a mixed-use building containing a dwelling unit, public washrooms, laundry, and office space. This site is prone to flooding due to the low elevation (average 359.1m), and flooded during the last two major flooding events of 2011 and 2014.

ANALYSIS:

The applicant proposes to increase the number of camping and seasonal lots to a maximum of 275, depending on the engineered berm placement and the fencing around the Brandon Indian Residential School gravesite. To provide flood protection measures, the applicant will be required to construct an engineered berm to protect the main area of the campground. Recreational campsites will only be within this protected area.

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 main uses in the surrounding area are agricultural and recreational, including a cultivated farm, experimental farms and the Wheat City Golf Course. Similar to the agricultural lands and golf course, the campground is an outdoor low intensity use. Even with the expansion, the low intensity of the campground use is compatible with the nature in 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;

Expanding the existing camp sites is not detrimental to or negatively affecting people and properties in surrounding area, but may pose potential risk to people occupying the site due to the site's location in a flood prone area. However, considering the proposed engineered berm placement along the river, as well as the required emergency and life-safety evacuation plan, the risk on the people occupying the site is lower.

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 site was previously developed at grade when the city park was established, together with the softball diamonds and other outdoor recreation facilities. Developing recreational uses in the private berm area is consistent with the policy direction adopted in the Assiniboine River Corridor Master Plan and the Greenspace Master Plan. Although there is no injurious effect on the applicant's property, increasing the intensity of use by adding more camping and

seasonal lots on the site will help the site owner offset costs associated with the berm to provide flood protection for 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 Brandon and Area Planning District Development Plan 2013

- To allow limited development should be allowed in areas protected by dikes (1.1.5)
- To allow for the continuation of existing development in the existing flood protected areas including the up-keep, renewal, renovation and limited expansion of existing developments and to direct intensive development away from diked areas (15.2.2)
- For renovation, renewal, expansion, or up-keep of existing improved properties the elevation of the habitable or human occupiable space shall be compatible with the floor elevations of the existing structure (15.2.2).

The Brandon and Area Planning District Fringe Area Growth Strategy

- Diked areas within the flood-fringe may be considered for commercial development when allowed by existing zoning. (6.2.3)

The Assiniboine River Corridor Master Plan

- The Assiniboine River Corridor Master Plan recommends a new Flood Fringe Recreation (Active Parks) zoning designation for the land below the elevation protected by dikes. These areas should allow for a range of recreational uses. (6.1.1.1)
- Private ring dikes along the southern part of the site is recognized to provide flood protection (5.1.3)

The Zoning By-law

- A campground is a permitted use in the PR Zone
- Appropriate flood proofing measures are required, including the finished grade 0.3m above the design flood level and the first floor 0.6m above the design flood level, and alternative methods of flood protection may be considered if providing equivalent level of protection

Commenting Agencies

All comments have been addressed and summarized below.

City of Brandon

The City requires a development agreement as set out in the Development Review Group Report (Attachment D). Highlights of conditions include

- Fencing off the Brandon Indian Residential School gravesite based on findings of a 2019 heritage resource impact assessment
 - When the applicant first applied in 2018, the City was made aware of the presence of a gravesite
 - In 2019, a heritage resource impact assessment commissioned by the applicant confirmed a Brandon Indian Residential School gravesite on the site
- Constructing a berm around the campsites for flood-proofing purposes
- Entering into an easement agreement with the City for City infrastructure located on and east of the site

Manitoba Infrastructure

- Provide sufficient drainage information to Manitoba Infrastructure Engineering and Operations Division, Highway Planning and Design Branch to ensure drainage from the site will not adversely affect the provincial highway system
- Dependent on trip generation projections, a more detailed traffic impact study may be required, and if required must be prepared by qualified engineer to determine what impact the traffic generated by this development will have on traffic operations in the area

LEGISLATIVE REQUIREMENTS:

Notification

In accordance with Section 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 site and notice posters were posted on the site.

Public Outreach

In accordance with Section 13 of the Zoning By-law, the applicant conducted a meeting with three sites adjacent to the site. As of the writing of this report, the Planning & Buildings Department has not received representation in favour of or in opposition to this application.