


<b>TITLE:</b> <b>VARIANCE</b> <b>1430 PARKER BOULEVARD</b> <b>OWNER: PROFILE PAVING LTD.</b> <b>APPLICANT: BURNS MAENDEL CONSULTING ENGINEERS LTD.</b> <b>(DANIEL BURNS)</b>		
<b>MEETING DATE:</b> August 1, 2018		<b>Page 1 of 4</b>
<b>DEPARTMENT:</b> Planning & Buildings	<b>ATTACHMENTS:</b> A. Application related documents B. Map, air photo & drawings C. Community participation report	
<b>PRESENTER:</b> Andrew Mok, BES MCIP RPP	<b>MANAGER:</b> Ryan Nickel, Chief Planner	

**RECOMMENDATIONS:**

That Variance Application V-10-18-B to vary Clause 69(d)(3) of the Zoning By-law to permit the first floor of a building to be constructed 0.4m below the design flood level in the Floodplain Overlay Zone, and Clause 69(d)(4) to permit the finished grade of the building to be 0.6m below the design flood level, to allow for the development of a construction machinery storage compound in the Industrial Restricted (IR) Zone at 1430 Parker Boulevard (Lots 8/17 & 29/37, Block 5, Plan 223 BLTO exc. Lots 16/17 & 29/30, Road Plan 1560 BLTO, and a portion of 15<sup>th</sup> St. and lane (now closed) shown on Plan 223) be rejected.

**BACKGROUND:**

***Request***

The applicant, Daniel Burns of Burns Maendel Consulting Engineers Ltd., on behalf of the property owner, Profile Paving Ltd., is applying to vary two clauses of the City of Brandon Zoning By-law No. 7124 for property located at 1430 Parker Boulevard in the Industrial Restricted (IR) Zone:

- Clause 69(d)(3) to permit the first floor of a building to be constructed 0.4m below the design flood level in the Floodplain Overlay Zone
- Clause 69(d)(4) to permit the finished grade of the building to be 0.6m below the design flood level

Approval of this application will allow for the development of a construction machinery storage compound.

***Development Context***

The site is currently vacant, and is located at the southwest corner of Parker Boulevard and 14<sup>th</sup> Street North. Uses surrounding the site include a recreational greenspace to the east and southeast, commercial and light industrial uses to the west, undeveloped land to the south and north, and a cattle auction facility to the northeast. Parker Boulevard and 14<sup>th</sup> Street North provide access to the site.

***History***

The site was developed as a bulk petroleum facility in 1953, which was decommissioned in 1992. Initial remediation work was completed in 1995, with additional work completed in 1999 and 2004.

**ANALYSIS:**

The applicant is proposing to develop a building and compound in which the property owner can store their construction machinery and have an office for operations. The applicant will construct the building about 2.0m higher than the existing grade on the site, but the building will still be below the design flood level.

***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;***

Light industrial development has existed on sites east of 18<sup>th</sup> Street North in this area. Many existing non-residential developments in this area also have buildings below the design flood level. The proposal therefore will be 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;***

The site is large enough that the applicant could construct the proposed building at a higher ground elevation in compliance with the Zoning By-law. However, the site would be significantly higher than the surrounding area, potentially affecting the surrounding area by increasing the risk of faster drainage from the site. The proposal therefore will not have any detrimental effects on the surrounding area. However, intensifying development below the flood level may be detrimental to people working on the site if the dyke were breached.

**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***

Administration recognizes the challenges to develop a new building to meet the design flood level. However, a reduction in the design elevation of up to 1.0m from what is required under the Zoning By-law, and maintaining the lowest level of the building below the design flood level, is not the minimum modification of the Zoning By-law to relieve its injurious effect, as the building and its occupants at risk of flood damage if the dyke were breached.

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

Brandon & Area Planning District Development Plan 2013

- Area designated for residential uses, but site still zoned for light industrial uses
- Policy 15.2.2 allows for limited development within flood protected areas with restrictions, including development of new construction meeting minimum height determined by the City Engineer

Zoning By-law No. 7124

- Proposal complies with all other Zoning By-law requirements, such as building setbacks and parking

***Commenting Agencies***

All comments have been addressed and summarized below.

City of Brandon

- The City of Brandon does not support this application due to risk to people and property not accounted for by constructing the proposed building below the design flood level
  - If Planning Commission approves application, recommend the following conditions of approval
    - The applicant must enter into a development agreement with the City with save harmless clauses, as the site is within an area that may be at risk of flooding
    - All dangerous goods on site are to be stored at a minimum geodetic elevation of 361.4m, 0.6m above the 100 year flood elevation
    - The building's electrical panel is to be installed at a minimum geodetic elevation of 361.4m, 0.6m above the 100 year flood elevation
- The property owner must comply with a restrictive covenant registered on the title of the site

- If developing the site,
  - the applicant or property owner must remove all approaches, including culverts, from 14<sup>th</sup> Street North, with the ditch to be reinstated
  - Discharge from the site is to be limited to a 1-in-5-year pre-development storm event

### **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 mailed out information about the proposal to surrounding sites on May 16, 2018. As of the writing of this report, the Planning & Buildings Department has not received representation in favour of or in opposition to this application.

#### ***Options***

The Planning Commission has the following options regarding its decision:

1. Reject the application
2. Approve the application
3. Approve the application, with conditions
4. Defer the application

Should the Planning Commission decide to approve the application, the Planning & Buildings Department recommends that the approval be subject to the property owner, prior to the issuance of a development permit, entering into a development agreement with the City of Brandon, and registering said agreement on the Title to the subject property, with the following conditions in said agreement:

- The property owner will save harmless the City of Brandon
- All dangerous goods on site are to be stored at a minimum geodetic elevation of 361.4m, 0.6m above the 100 year flood elevation
- The building's electrical panel is to be installed at a minimum geodetic elevation of 361.4m, 0.6m above the 100 year flood elevation