

TITLE: CONDITIONAL USE & VARIANCE 847-11TH STREET OWNER: J & G HOMES LTD. APPLICANT: J & G HOMES LTD.		
MEETING DATE: August 15, 2018		Page 1 of 5
DEPARTMENT: Planning & Buildings	ATTACHMENTS: A. Application related documents B. Map, air photo & drawings C. Community Participation Report	
PRESENTER: Shengxu Li, Community Planner	MANAGER: Ryan Nickel, Chief Planner	

RECOMMENDATIONS:

Conditional Use

That Conditional Use C-11-18-B to allow for the development of a three dwelling units building on an interior lot in the Residential Low Density (RLD) Zone be approved at 847-11th Street (Lots 15/16, Block 37, Plan 16 BLTO exc. Nly 4 feet of Lot 15) in accordance with the intent of the application “Attachment A-1”, the letter of intent “Attachment A-3” and the site plan “Attachment B-2”.

Variance

That Variance Application V-11-18-B to vary Section 71(b) of the Zoning By-law by decreasing the distance of multiple dwelling units from a railway right-of-way from 30.0m to 17.0m to allow for the development of a three dwelling units building in the RLD zone be approved at 847-11th Street (Lots 15/16, Block 37, Plan 16 BLTO exc. Nly 4 feet of Lot 15) in accordance with the intent of the application “Attachment A-2”, the letter of intent “Attachment A-3” and the site plan “Attachment B-2”.

BACKGROUND:

Request

The owner and applicant, J & G Homes Ltd., is applying for the following to allow for the development of a three unit multiple dwelling for a property located at 847-11th Street, an interior lot in the Residential Low Density (RLD) zone:

- Conditional Use – to allow for the development of a three dwelling units building on an interior lot in the RLD zone
- Variance – to vary Section 71(b) of the Zoning By-law by decreasing the distance of multiple dwelling units from a railway right-of-way from 30m to 17m

Development Context

The site is currently vacant, and is located on the 800 block of 11th Street, near to the northeast corner of 11th Street and Park Avenue. Uses surrounding the site are residential to the north, west and south, and a mix commercial uses to the east across the railway. The Canadian National Railway (CNR) right-of-way crosses 10th Street and Park Avenue to the south of the site. An elementary school is located within walking distance (less than 400m) from the site. 11th Street and the back lane provide vehicle access to the site.

History

The site was previously occupied by a one-storey single detached house, which was built in 1919. The property owner demolished the house with the issuance of demolition permit in 2017. In 2005, the Railway Protection Overlay Zone (RPOZ) provisions were incorporated into Zoning By-law No. 6642, and continue to exist under the current Zoning By-law No. 7124.

ANALYSIS:

The applicant is proposing to develop a three unit multiple dwelling on the site. The building is one storey (bi-level), with one unit (two bedroom) facing 11th Street and two (three bedroom) units facing the lane. Four parking spaces will be provided off the rear lane and one parking space will be in the front from 11th Street.

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 site is located in a neighbourhood that includes a mixture of residential low density unit types (single detached dwellings, duplexes, four-plexes). Both the front street and rear lane provide the access, which is consistent with other sites in the area. The bi-level single storey building type is also compatible with the general nature of the 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 proposed building's form and site layout will be consistent with many of the existing residential developments in the surrounding area (e.g. one and half storeys, hipped roof, parking at rear yard), therefore, the proposed development will not negatively impact the health or welfare of people in surrounding area, as well as any potential development.

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 proposal conforms to the Brandon & Area Planning District Development Plan 2013 (Development Plan):

- The subject site is within the area identified as “Residential” in Map One: Urban Land Use of the Development Plan (2.2.1)
- The surrounding residential area already consists of a mix of detached dwellings, duplex and multiple dwellings (2.2.2); and
- Introducing alternative housing types in the existing area will encourage a mix of income levels and cater to the affordable housing demand (2.2.3).

The proposed development complies all applicable requirements in the Zoning By-law, except for the Railway Protection Overlay Zone (RPOZ) setback:

- The proposed setback from the dwelling units to railway right-of-way is 17m, shorter than required 30m

The applicant has concurrently applied for a variance to address the non-compliance. Analysis is provided under the variance portion of this report

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;

See conditional use analysis

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 intent of the 30m setback from the railway for new residential uses is to ensure safety of future residents from train derailments and spills as well as minimize noise and vibration nuisances from the railway on new development.

Although closer than 30.0m from the railway, the development is separated from the railway by two existing residential dwellings to the south and the distance between the railway track and the site is approximately 20.0m. The track speed for this portion of railway is less than 50km/h. The request will not be detrimental to CNR’s operations and people’s health and welfare in surrounding areas.

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 30.0m minimum required setback from the railway right-of-way (for residential units) significantly reduces the buildable area of the site. Constructing a berm for mitigation would

adversely impact the existing developed dwellings to the south of the site and the amount of area required for the berm would render the site undevelopable. Decreasing the required setback allows for the subject site to be developed and relieves the injurious effect of the zoning by-law on the applicant's property.

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

See conditional use analysis

Commenting Agencies

All comments have been addressed and summarized below.

Canadian National Railway

Canadian National Railway (CNR) does not oppose this application, but recommend the following:

- Building mitigation measures are integrated into the building design, such as provision for air-conditioning, masonry exterior cladding, acoustically upgraded windows and noise sensitive rooms away from railway side; and
- A “buyer beware” clause be inserted in all development agreements, offers to purchase, and lease or sale agreements within 300m of CNR right-of-way.

The City of Brandon doesn't require a development agreement for this proposed development, therefore the recommended clause will not be incorporated by the City. CNR's comments have been forwarded to the applicant for consideration in the final design of the proposed building.

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 sent the letter about the application to neighbouring property owners, as well as talking to some of the neighbours. 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.