


<b>TITLE:</b> <b>VARIANCE V-08-21;</b> <b>BY-LAW NO. 7303 TO REZONE</b> <b>PROPERTY LOCATED AT THE CLOSED LANE AT THE PERIMETER</b> <b>OF 25 – 20<sup>TH</sup> STREET</b> <b>OWNERS: CHUKWUDI ELVIS OKONJI</b> <b>APPLICANT: JOEL CARDINAL-SCHULTZ</b>		
<b>MEETING DATE:</b> July 7, 2021		<b>Page 1 of 5</b>
<b>DEPARTMENT:</b> Planning & Buildings	<b>ATTACHMENTS:</b> A. By-law No. 7303 B. Application related documents C. Map, air photo & drawings D. Development review group report E. Community participation report	
<b>PRESENTER:</b> Shengxu Li, Community Planner	<b>MANAGER:</b> Ryan Nickel, Chief Planner	

**RECOMMENDATIONS:**

***Rezoning***

That the Planning Commission recommend City Council approve By-law No. 7303 (Z-04-21) to rezone the closed lane at the perimeter of 25 – 20<sup>th</sup> Street (Closed lane, Block 10, Plan 15 BLTO) from Residential Low Density (RLD) to Residential Moderate Density (RMD), subject to the owner or successor entering into a development agreement with the City of Brandon with the following conditions:

1. The Developer agrees to develop a 12-plex multi dwelling-unit residential building in general consistency with the attached site plan;
2. The Developer agrees to construct a sidewalk along 20<sup>th</sup> Street for the entire length of the property;
3. The Developer agrees to enter into a statutory easement agreement with the City of Brandon for public drainage being conveyed from the 1900 block of Rosser Avenue over the legally closed portion of lane.;
4. The Developer agrees to provide a servicing assessment, prepared by a professional engineer, demonstrating there is sufficient water and sewer capacity available within the existing system. Such submission shall accompany the design drawings at the time of development permit;
5. The Developer agrees to contribute \$970.42 for cash in lieu of land dedication of public reserve. This contribution is due in full upon execution of the development agreement;
6. The Developer agrees to contribute to the Brandon School Division in lieu of land dedication in the amount of \$2,430.00;
7. The Developer agrees to provide a Detailed Cost Estimate for all work proposed to be completed within the City’s right-of-way. The Detailed Cost Estimate is to be prepared by

the Developer's Consulting Engineer and is submit to review and acceptance by the City Engineer;

8. The Developer will be responsible to submit a certified cheque totalling 25% of the Detailed Cost Estimate. Submission of the certified cheque is required prior to the issuance of a development permit;

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.

***Variance***

That Variance Application V-08-21 to vary the following under the Zoning By-law at 25 – 20<sup>th</sup> Street and the closed lane at the perimeter (Lot 11/13, Block 10, Plan 15 BLTO; Closed lane, Block 10, Plan 15 BLTO) in the Residential Moderate Density (RMD) Zone:

- Table 1 under Section 24 by decreasing the distance of balcony projection to the front site line from 4.0m to 1.5m
- Table 10 under Section 51 by decreasing the required
  - Front yard from 4.6m to 3.0m
  - Interior side yard from 3.0m to 1.2m

be approved in accordance with the letter of intent "Attachment B" and site plan "Attachment C-3".

**BACKGROUND:**

***Request***

The applicant, Joel Cardinal-Schultz of Concept Homes, on behalf of the property owner, Chukwudi Elvis Okonji and the City of Brandon, is applying for the following to allow for development of a 12-unit multiple dwelling on the property located at 25 – 20<sup>th</sup> Street and the closed lane at the perimeter:

- Rezoning from Residential Low Density (RLD) to Residential Moderate Density (RMD)
- Variance of Table 1 of the Zoning By-law decreasing the distance of a balcony projection to the front site line from 4.0m to 1.5m
- Variance of Table 10 of the Zoning By-law decreasing the required front yard from 4.6m to 3.0m
- Variance of Table 10 of the Zoning By-law decreasing the required interior side yard from 3.0m to 1.2m

### ***Development Context***

The majority of the site is currently vacant, with the southern portion of the site actively used as a lane for one of the properties immediately south of the site despite the lane being legally closed. The site is located near the northern end of the 20<sup>th</sup> Street right-of-way and the former Brandon University physical plant. Uses surrounding the site includes undeveloped land to the north, and lower-density residential to the west, south, and east. The site is near some commercial uses, mostly along 18<sup>th</sup> Street, Brandon University further south, and a transit stop at Rosser Avenue. 20<sup>th</sup> Street provides access to the site.

### ***History***

An eight-unit multiple dwelling building on the 25 – 20<sup>th</sup> Street portion of the site was demolished by 2018. The City closed the public lane surrounding 25 – 20<sup>th</sup> Street in 1955. When the lane was closed, they automatically acquired the same zones as the abutting sites (known as 32 – 19<sup>th</sup> Street, and 1923 and 1937 Rosser Avenue). This resulted in part of the former lane being in the RMD, and another part in the RLD Zone. The property owner of 25 – 20<sup>th</sup> Street is purchasing the closed lane to consolidate with 25 – 20<sup>th</sup> Street to develop the site.

### **ANALYSIS:**

#### ***Rezoning***

Approval of these applications will allow for development of a three-storey 12-unit multiple dwelling building. The closed lane will be consolidated with 25 – 20<sup>th</sup> Street to meet the density requirements for the proposed residential development. The site will provide 18 parking spaces, and be accessed from 20<sup>th</sup> Street. Neighbours to the south will still have access to their detached garages, as shared access agreements are already in place since the closure of the lane.

#### **Consistency with the Development Plan**

- Provide a mix of housing options in the neighbourhood as well as housing affordability for various income levels (Policy 2.2.2 and 2.2.3)
- Contributes to a range of housing density options in the neighbourhood and increased density in close proximity to major institutions, schools, transit routes, open space areas, and major collector streets (Policy 2.2.4 and 2.2.5)
- Infill development is one of the three priorities for growth in the City of Brandon, and the proposal accommodates population growth within developed areas while ensuring contextually appropriate infill development (Policy 10.2.3 and 10.2.4)

Consistency with the Zoning By-law

- The closed lane is currently partially zoned RLD and requires rezoning to RMD to accommodate the proposed 12-unit multiple dwelling
- The proposed development meets the majority of the provisions in the Zoning By-law, except for the required yard setbacks and balcony projection, to be addressed next in this report

**Variance**

The applicant is proposing to reduce both the front yard and north side yard setbacks as well as the balcony projection in the front yard to allow for enough space for the rear parking area and the driving aisle linking the parking area from 20<sup>th</sup> Street.

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;

Although the proposed setbacks and balcony projection are closer to the site lines than the adjacent dwellings, they are still consistent with the corner yard setbacks of dwellings along the same street, such as dwellings at 1937 and 2003 Rosser Avenue.

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 adjacent to a local street with no sidewalks. The City requires a sidewalk along 20<sup>th</sup> Street for the frontage of the site for the proposed development. It will provide some buffer between the proposed building and vehicle traffic to mitigate the impact of the reduced the front yard and balcony projection. The property to the north has overhead Manitoba Hydro facilities close to the shared property line, limiting future development opportunities. Therefore, the reduction of the north side yard will not negatively affect the potential development to the property to the north.

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 proposed setback and balcony projections will provide more space for the parking area and the driving aisle that also serves the access of the neighbouring properties to the south, enabling better traffic function on the site. It is the minimum modification of the Zoning By-law to relieve its injurious effect on the 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*

Apart from the reduction to the required yard and balcony projection, the proposal complies with all other applicable provisions of the Development Plan and Zoning by-Law.

***Commenting Agencies***

All comments have been addressed and summarized below.

*City of Brandon*

The City of Brandon advises that a development agreement is required, with conditions as identified in the “Recommendations” section and “Attachment D” in this report. Some key conditions are highlighted as follows:

- Construct a sidewalk along 20<sup>th</sup> Street
- Enter into a statutory easement agreement with the City for public drainage purpose
- Provide a servicing assessment to demonstrate sufficient water and sewer capacity for the development
- Contribute \$970.42 for a cash-in-lieu of land dedication for public reserve purposes
- Contribute \$2,430.00 for a cash-in-lieu of land dedication for school purposes

**LEGISLATIVE REQUIREMENTS:**

***Notification***

In accordance with Section 168 of The Planning Act, notice of the public hearing was sent to owners of property within 100 metres (328 feet) of the subject property. Notice was also posted on the subject property and advertised in the Brandon Sun on June 17, 2021 and June 25, 2021.

***Public Outreach***

In accordance with Section 13 of the Zoning By-law, the applicant mailed the proposal to property owners in the adjacent area. The community participation report (Attachment E) states that the applicant did not receive any concerns or comments from the public outreach process. As of the writing of this report, the Planning & Buildings Department has not received representation in favour of or in opposition to this application.