

TITLE: SUBDIVISION; BY-LAW NO. 7311 TO REZONE PROPERTY LOCATED AT 2210 MARYLAND AVENUE OWNER: R.G.M. HOLDINGS LTD. and PATRICIA MAZER HOLDINGS LTD. APPLICANT: LANDMARK PLANNING & DESIGN INC. (ANDREI FRIESEN)		
MEETING DATE: September 15, 2021		Page 1 of 7
DEPARTMENT: Planning & Buildings	ATTACHMENTS: A. By-law No. 7311 B. Application related documents C. Map, air photo & drawings D. Community participation report E. Development Review Group report	
PRESENTER: Andrew Mok, BES RPP MCIP	MANAGER: Ryan Nickel, Director of Planning & Buildings	

RECOMMENDATIONS:

Rezoning

That the Planning Commission recommend City Council approve By-law No. 7311 (Z-07-21 to rezone **part of** 2210 Maryland Avenue (Pt. SE¼ 10-10-19 WPM) from Development Reserve (DR) to Educational & Institutional (EI) and Parks and Recreation (PR), subject to the following conditions:

1. The PR Zone shall coincide with the proposed public reserve dedication under subdivision application 4500-21-715 along the west side of the site; and
2. The owner or successor entering into a development agreement with the City of Brandon with the following conditions:
 - a. The Developer agrees to develop the site and construct an elementary school in general consistency with the attached site plan;
 - b. The Developer agrees to dedicate 15m of land along the west property line for the entire length of the lands for the purposes of a multi-use trail connection and for future drainage network improvements. The land shall be dedicated as public reserve and identified on the Plan of Subdivision;
 - c. The Developer agrees to develop the 15m public reserve land by constructing the multi-use trail, planting trees and laying sod. The design and landscaping of the public reserve is to be reviewed and accepted by the City Engineer prior to the issuance of a development permit;
 - d. The Developer agrees to dedicate 4m of land along the north property line for the entire length of the lands for the purposes of a constructing a 1.8m sidewalk. The land shall be dedicated as right-of-way and identified on the Plan of Subdivision;

- e. The Developer agrees to construct the 1.8m sidewalk along the north property line for the entire length of lands. The design of all work proposed in the right-of-way is subject to review and acceptance of the City Engineer prior to the issuance of a development permit, and shall be performed as stated in the latest edition of the City of Brandon's Standard Construction Specifications;
- f. The Developer agrees to pay a contribution towards fourteen (14) boulevard trees. The amount of payment for such trees will be calculated at the time of execution of this development agreement and based upon the City's tree contract pricing for the current year. Payment in full will be required at the time of execution of the development agreement;
- g. The Developer agrees to submit a Traffic Impact Study prior to the issuance of the development permit. Should the Traffic Impact Study recommend any required improvements necessary for the development of the school, an amendment to the development agreement will be required;
- h. The Developer agrees to construct a crosswalk on Maryland Avenue. Crosswalk enhancements shall include hardsurfaced approaches and culverts from the multi-use trail and sidewalk to roadways, rectangular rapid flashing beacons and required signage. The design of all work proposed in the right-of-way is subject to review and acceptance of the City Engineer prior to the issuance of a development permit, and shall be performed as stated in the latest edition of the City of Brandon's Standard Construction Specifications;
- i. The Developer acknowledges the site will be subject to development charges. Network Infrastructure charges of \$260,610.49 (2021 rate) are due upon the execution of the development agreement in accordance with Schedule B-3 of the Development Charges By-law. Additional development charges will be charged against any future buildings and will be applied at the time of issuance of a building permit;
- j. The Developer agrees to provide the City with 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; and
- k. The Developer will be responsible to submit either an Irrevocable Letter of Credit or a certified cheque totalling 15% of the Detailed Cost Estimate. Determination of the type of security will be determined upon receipt and acceptance of the detailed cost estimate. Submission of the security is required prior to the issuance of a development permit.

(Note: emphasis added, recommendation based on subsequent mutual agreement between the applicant and City administration to not rezone the proposed Commercial General (CG) portion of the site)

Subdivision

That the Planning Commission recommends Brandon City Council approve the application to subdivide (4500-21-715) 2210 Maryland Avenue (Pt. SE¼ 10-10-19 WPM) to create one (1) lot, a public road, and public reserve in the Educational & Institutional (EI), Public Reserve (PR), and Development Reserve (DR) Zones, subject to:

1. The plan of subdivision including the following dedications:
 - a. A public road dedication taking the northernmost 4.0m of the site, to be incorporated into the Maryland Avenue right-of-way; and
 - b. A public reserve dedication taking the westernmost 15.0m of the site; and
2. The owner or successor providing written confirmation to the City of Brandon Planning & Buildings Department that taxes for the property to be subdivided, for the current year plus any penalty, interest and arrears, have been paid in full or arrangements must be made satisfactory to Brandon City Council.

BACKGROUND:***Request***

Andrei Friesen of Landmark Planning & Design Inc., applicant on behalf of the property owners, R.G.M. Holdings Ltd. and Patricia Mazer Holdings Ltd., is applying for the following for 2210 Maryland Avenue:

- To rezone from the Development Reserve (DR) Zone to the Educational & Institutional (EI) and Commercial General (CG) Zones
- To subdivide to create one (1) lot in the EI Zone (with residual land in the proposed CG Zone)

Approval of these applications will enable development of a new K-12 school under the District scolaire franco-manitobain (DSFM), while leaving some land for the current property owners for future commercial development.

Development Context

The subject site is currently mostly vacant, with the fenced area in the northeast area of the site used for storing inventory from nearby automobile dealerships. The site is located on the south side of Maryland Avenue about halfway between 20th and 26th Streets. Uses surrounding the site include residential uses to the north and south, commercial to the east, and undeveloped land to the west. There is also a private school to the southwest, as well as a Brandon School Division-owned site to the northwest, currently used as community gardens. Maryland Avenue provides access to the site.

History

The site was the former location of a landscaping company until 2013-2014. Since then, the site has mostly been empty except for the fenced area on the site's northeast area in recent years storing inventory from nearby automobile dealerships. A building that was part of the landscaping business still stands today in the northeast corner of the site.

ANALYSIS:

The applicant is proposing to develop ten of the 12 acres of the site as a K-12 school for the DSFM (Attachment C-3). The proposed school would accommodate 250 students and 40 staff, with a possible attached daycare facility accommodating 60 children and 15 staff. The DSFM school will complement existing schools in the city, most of them operated by the Brandon School Division, as the DSFM school will target francophone students. Currently, the closest DSFM school is at CFB Shilo east of the city. The school will have frontage to Maryland Avenue, a collector street currently with a paved rural cross-section.

The applicant's original proposal also includes rezoning the residual two acres of the site at the northeast corner for future commercial development. The applicant and property owner currently have no plans on how to develop the commercial portion. After City administration's review of the applications, the applicant agrees with City administration to not pursue this part of the rezoning (see report subsection "Commenting Agencies" —City of Brandon).

Consistency with the Development Plan

- 2.2.12 and 2.2.13—schools permitted in Residential areas
 - Existing Southwest Brandon Secondary Plan to be amended to allow for an additional school site (see next report subsection "Consistency with the Southwest Brandon Secondary Plan")
- 10.2.3—site is infill development within an urbanized part of the city, as well as being in a secondary plan area
- 12.2.1—new developments will be located in areas that are partially developed and adjacent to existing utilities and services. If not possible, then new development should be directed to a location that can be readily and economically serviced by the various utilities and services required by the future occupants of the development
 - Water service exists along Maryland Avenue, but closest sanitary sewer service is at 20th Street
 - Latest data shows 20th Street sanitary sewer main has limited capacity remaining
 - Based on proposed school and daycare parameters, subject to extension of sanitary sewer line along Maryland Avenue to 20th Street, school and daycare can be serviced

- On the other hand, rezoning of residual land to CG Zone **not** recommended due to sanitary sewer service uncertainty associated with lack of firm concept or proposal for the commercial component
 - Policy 12.2.12 requires new developments to connect to water and sanitary sewer services at the time of development
 - City does not have confidence remaining capacity available with 20th Street sanitary sewer for any form of commercial development the Zoning By-law may permit, and does not want to lead developers to erroneously believe the proposed commercial portion will be shovel-ready

Consistency with the Southwest Brandon Secondary Plan

- Current version of the Southwest Brandon Secondary Plan (“Secondary Plan”) shows site within a Residential Low Density area, no school site or commercial area identified
- City concurrently amending the Secondary Plan to update infrastructure policies as well as allowing the proposed school to be located on this site
 - Council must adopt amendments to the Secondary Plan under By-law No. 7310 before or at the same time as approving this rezoning application to enable this rezoning
- City also proposing a Mixed Use area east of the new school site to accommodate future commercial development when servicing capacity allows in the future
 - Mixed Use area here makes sense due to adjacency to existing commercial sites along Currie Boulevard, isolation of residual parcel from existing or future adjacent residential areas, and frontage on a collector street (Maryland Avenue)
- Secondary Plan calls for pedestrian connection from Maryland Avenue south to the latest expansion area of Brentwood Mobile Home Park, as well as from the site generally westward to the rest of the Secondary Plan area
 - City therefore recommends dedication of land for public reserve purposes along the entire western edge of the site (15.0m wide) as well as dedicating a public road the entire northern edge of the site (4.0m wide), to be incorporated into the Maryland Avenue right-of-way, as conditions of approval for subdivision
 - City also recommends, as a condition in the development agreement to be part of this rezoning application, that the developer construct a sidewalk along the south side of Maryland Avenue within the widened right-of-way, for only the proposed school site’s frontage since the residual parcel will remain in the DR Zone and undeveloped, and an active transportation trail along the west side of the site within the respect public reserve strip

Consistency with the Zoning By-law

- Current DR Zone has very limited permitted uses
- Proposed EI Zone will allow for the school and daycare facility
- Applicant demonstrates school development can comply with bulk and siting requirements within the proposed ten acres (Attachment C-3)
- With City requiring dedication of 15.0m public reserve along west side of site, proposed public reserve should be rezoned to Parks and Recreation (PR) instead of EI
 - Can be considered a minor amendment to this proposal under The Planning Act, as the amendment does not change the overall intent of the proposal (school development)
- No analysis being done on the proposed CG Zone, as the applicant agrees with the City to not pursue that part of the rezoning at this time (see report subsection “Commenting Agencies” —City of Brandon)
- Though northeast corner of site is much smaller than the required minimum site area for the DR Zone (Table 20, Section 68), no variance required as the northeast corner, consistent with Teranet Manitoba comments on the subdivision application, is considered to be the residual parcel (the proposed school site will be the new lot), and therefore the DR Zone will be considered a lawfully non-conforming situation

Commenting Agencies

All comments have been addressed and summarized below.

City of Brandon

- City does not support rezoning of portion of site to CG
 - City cannot support sanitary sewer servicing the proposed CG site, and does not want to give perceived entitlement to servicing
 - After discussing with the applicant of the City’s concerns, and recognizing there are no immediate plans for the northeast portion of the site, the applicant and the City agree the northeast portion should remain in the DR Zone
- 2021 property taxes still owing, and must be paid in full as condition of subdivision approval to avoid complications during registration of subdivision with The Property Registry
- Development agreement required as part of the rezoning with the following conditions in accordance with the Development Review Group report (Attachment E):
 - Construction of active transportation trail within new public reserve on west side of site and sidewalk along the proposed school site’s Maryland Avenue frontage, along with respective land dedications under the associated subdivision application

- Traffic impact study required at the developer's expense, with the developer implementing any recommendations of necessary improvements
 - Study to assess impact of proposed traffic volumes on Maryland Avenue and various intersections in the area
- Development of a crosswalk across Maryland Avenue near the school site at the developer's cost
 - School to be on south side of street, but existing active transportation trail located along the north side of the street
 - Crosswalk needed to provide a safer pedestrian access from the existing trail to the school as well as the new trail connecting to Brentwood Mobile Home Park
- Development charges, calculated at \$260,610.49 for the proposed school site
 - Charges to not apply to residual parcel, as applicant no longer pursuing CG Zone, residual shall remain in the existing DR Zone
- Detailed cost estimate to be provided by a consulting engineer, for Engineering's review and acceptance, for all infrastructure that will become public

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 August 26, 2021 and September 2, 2021.

Public Outreach

In accordance with Section 13 of the Zoning By-law, the applicant mailed letters to nearby property owners in May 2021, and had follow-up correspondence with two of the property owners (Attachment D). Concerns these property owners raised included the future of existing on-site trees and timing of the project. As of the writing of this report, the Planning & Buildings Department has not received representation in favour of or in opposition to this application.