

September 13, 2012

To: Members,  
Regina Planning Commission

Re: Applications for Official Community Plan Amendment and Contract Zone Approval (12-CZ-6) Proposed Mixed-Use Building  
2100 15<sup>th</sup> Avenue, and 2276, 2260, 2256 Scarth Street

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### RECOMMENDATION

1. That the proposed amendments to *Development Plan Bylaw No. 7877* and *Regina Zoning Bylaw No. 9250* as shown in Appendix E be DENIED.

### CONCLUSION

An application has been submitted to accommodate a mixed use building through a contract zone in the Centre Square neighbourhood. The proposal also requires amendment to the Transitional Area Development Plan as a mixed-use building is not contemplated on the subject property. The proposed building would include a 66 residential units and 525 m<sup>2</sup> of commercial space on the main level with 71 enclosed parking stalls.

While an additional 66 residential units and more commercial space would provide measurable benefits to the neighbourhood and adjacent downtown area, the Administration does not support the building as it does not demonstrate a sufficient level of sensitivity and compatibility with the surrounding area. Of particular concern is the lack of front yard setback, which is important to maintain for several reasons:

- The minimum required setback throughout the Centre Square neighbourhood is 5m. The front yard setback is a character-defining feature of the historically residential neighbourhood;
- The setback would provide more assurance that the mature tree canopy would survive. The tree canopy is a critical feature of the neighbourhood and particularly at the fringes of Central Park;
- Central Park is a major focal point to the neighbourhood and it is critical that development at its edges is representative of the community character;
- The deviation in zoning would be obvious, perceptible, and permanent. It could be used as justification for similar development proposals in the future, eroding the residential character of the neighbourhood that has been largely maintained.

The Administration discussed the concern with the applicant who has indicated that increasing the setback would not be feasible. They have provided a response to the issue in Appendix B. The Administration acknowledges that it might be appropriate to review zoning standards in order to accommodate a larger spectrum of the housing market in the Centre Square Neighbourhood, but it is not prepared to recommend approval of the proposal as a solution. Responses to housing challenges should be led through a planning process to ensure other community concerns are not ignored and such development is compatible with its context.

## BACKGROUND

An application for Contract Zone Approval has been submitted. The proposal also requires an amendment to the Part F of *Regina Development Plan Bylaw No. 7877—Transitional Area Development Plan (Official Community Plan)*.

The subject property is located in the boundaries of the Centre Square Community Association and the Old 33 Subdivision. The application is being considered pursuant to *The Planning and Development Act, 2007*, *Regina Development Plan Bylaw No. 7877*, and *Regina Zoning Bylaw No. 9250*.

## DISCUSSION

### **The Applicant's Proposal**

The applicant proposes to construct a mixed-use building with commercial uses on the main floor and residential apartment units on upper floors. The building would consist of a base with a height of approximately 6.12 m with a mezzanine level. There would be three commercial rental units on the base of the building with approximately 5,653 ft<sup>2</sup> (525.18 m<sup>2</sup>) of floor area. The applicant has indicated potential commercial users would be a gym facility, coffee shop, ice cream shop, eatery, art gallery, clothing retail, or office. There would be 66 units in total within two separate "towers" each consisting of three floors. Units would range in size from 450 ft<sup>2</sup> to 790 ft<sup>2</sup> and are intended for condominium ownership. Parking would be provided for 71 vehicles. Fifty-one stalls would be provided underground and 20 would stalls would be provided within the main level of the building. All parking facilities would be accessed from the rear of the building.

### **Analysis**

#### Site Context

The site is located in the Centre Square neighbourhood on the northwest corner of Scarth Street and 15<sup>th</sup> Avenue. Immediately to the east is Central Park, which is a major focal point of the neighbourhood. There is high rise apartment development to the south, low-rise apartment development to the west, and single detached homes to the immediate north. There are also commercial office buildings on the north end of the block. Within the wider context the site is located within a five minute walk of the downtown.

The site is currently vacant. There was a restaurant in a house-form building on the corner of 15<sup>th</sup> Avenue and Scarth Street before the site was cleared.

#### Contract Zoning

The applicant has applied to amend the zoning to C-Contract to accommodate the development. A contract zone agreement allows for the application of site-specific development standards and provides the opportunity to exercise some flexibility from conventional zoning standards to address compatibility issues with, and sensitivity to its surrounding context. Contract zones are particularly useful in infill situations where there are particular sensitivities with the surrounding area or other development constraints. Alternatively, the site could be rezoned to a conventional zone such as MX-Mixed Residential/ Business Zone.

The development would be required to conform to the standards of the zone, but any development consistent with the zone could occur. For example, the MX zone allows for purpose built office buildings, but also a range of other commercial uses, with varying degrees of compatibility with the surrounding area. Furthermore, development standards of a conventional zone such as height or setbacks might be too stringent or not adequately reflect the character of the surrounding built form.

In evaluating a contract zone the Administration considers the standards of comparable conventional zones in addition to the site context. In this case, the subject property is currently zoned TAR(H15), Transitional Area Residential (Height Overlay Zone of 15 m), in which a mixed use building is not permitted. In addition, where there is some variation between the underlying zoning and the proposal, the Administration can evaluate based on consistency with the surrounding area and the potential impact on adjacent properties. The Administration also used 3D modeling as a tool to show how the building massing relates to its surrounding context. Street level views are provided in Appendix C.

As the current zoning does not accommodate a mixed use building, rezoning is necessary. The proposed building also deviates from certain zoning standards including the front yard setback, site coverage, height, and parking, which would otherwise require relaxation through a development appeals process. The development appeals process recognizes that it is occasionally not possible or necessary to conform to established zoning standards.

Table 1, below, provides a summary of the critical zoning issues, how they compare to zoning regulations, and how they compare with the immediate surroundings of the property.

<b>Table 1</b>			
	<b>Proposed</b>	<b>Comparable Zone</b>	<b>Context</b>
<b>Use</b>	Mixed-Use Building	TAR(H15) Not permitted	There are few purpose-built “mixed use” buildings in the neighbourhood, although the neighbourhood overall has a strong mixed use character through conversions of houses to commercial uses and pockets of neighbourhood commercial. The neighbourhood also has the highest residential density in the city.
<i>Assessment</i>	Despite non-conformance with the Neighbourhood Development Plan, the mixed-use component of the building fits within its surroundings. Future commercial uses would potentially provide amenity to the neighbourhood, and more life to the streets, and draw more people to Central Park, the focal point of the neighbourhood. Before the site was cleared there was a restaurant on the site, which provided amenity to the neighbourhood.		
<b>Front Yard Setback</b>	0.0m	TAR (H15) 5m min.	The surrounding blocks all maintain the minimum front yard setback.
<i>Assessment</i>	<p>In the Administration’s opinion the front yard setback is a defining feature of the neighbourhood. The neighbourhood is one of the oldest residential areas in the city. It was developed with apartments and detached homes with a 5-6m front yard setback and a strong residential character, which allowed for trees to thrive and for landscaping adjacent to the street.</p> <p>While the neighbourhood has transitioned over the years to include a stronger commercial and high rise apartment presence a front yard setback has largely been maintained. In this particular location, adjacent to Central Park, it is crucial that development be representative and complimentary to the neighbourhood character. The area surrounding, with the exception of the north edge of the park, all maintains a uniform setback and original tree canopy. The subject property map in Appendix A-1 and the 3D model in Appendix C illustrate the condition of the surrounding area.</p> <p>The degree of relaxation of the front yard setback is too large for the Administration to support. It would be an obvious and permanent deviation from uniformity of the surrounding context. The building would be appropriate in a more urban context such as downtown, an arterial roadway, or location where</p>		

	<p>this condition previously exists. The Administration cannot support the application as proposed for this reason.</p> <p>Should there be a desire for a shift in the character of the neighbourhood character to accommodate this form of development this transition should be led by a citizen-engaged planning process to determine a strategy to determine appropriate locations for such development forms in the neighbourhood. Such a drastic shift in neighbourhood character should not be led by a single development proposal.</p>		
<b>Side Yard Setback</b>	<p>Nil (street) 1.2m (other)</p>	TAR (H15) Nil	<p>Original House form buildings are built very near side yard setbacks. Apartments generally allow for wider side yard setbacks to allow for windows and light penetration.</p>
<i>Assessment</i>	<p>The zoning standards in the area do not require side yard setbacks for apartments. Apartments along 15<sup>th</sup> Avenue maintain a narrow setback. The side yard setbacks conform to the Zoning Bylaw and fit within the surrounding context.</p>		
<b>Site Coverage</b>	97 percent	TAR (H15) 65 percent	<p>Surrounding apartment buildings largely conform to the site coverage standard.</p>
<i>Assessment</i>	<p>The site coverage development standard is one standard among others to control the bulk and massing of buildings on the site. When applied consistently across an area the maximum site coverage does help to define the character of a neighbourhood. In this case the mass of the building would be a large departure from other buildings in the area. Typically, buildings of this density are more often found in more urban areas such as downtown or pre-war commercial strips. In this case the amount of building is partly related to the lack of front yard setback. Hypothetically, if a 5m setback were added as required to the building, the site coverage would be about 85 percent, which would still exceed the underlying zoning standard, but would be closer to other buildings in the area and would be consistent with building forms in the area.</p>		
<b>FAR (ratio of floor area to site area)</b>	2.4	TAR (H15) – 3.5	<p>There is a mixture of high and low density development in the area.</p>
<i>Assessment</i>	<p>The density of the proposal is consistent with the surrounding neighbourhood.</p>		
<b>Landscaping</b>	10 percent	<p>Residential - 15 percent Commercial – 10 percent</p>	<p>Front yards are generally landscaped with grass, shrubs and trees and meet the minimum requirement.</p>
<i>Assessment</i>	<p>The development is more urban in character and does not satisfy the minimum requirements. Concern was raised regarding the impact of the development on the existing trees, which form an important part of the tree canopy along the edge of Central Park. There are eight mature elm trees that are in healthy condition along Scarth Street and four trees along 15<sup>th</sup> Avenue that are less substantial, but appear to be healthy. The applicant has indicated that they intend to maintain the trees, but it is questionable if the trees will survive after roots and branches are pruned to accommodate the parking garage and the building up to the setback.</p>		
<b>On-Site Parking</b>	71 stalls	TAR-1 stall per dwelling/ 1 stall per 50 m <sup>2</sup> of commercial space	<p>Parking in the community is a concern. On-street parking is scarce during business hours.</p>
<i>Assessment:</i>	<p>The proposal requires 66 stalls to satisfy residential standards and approximately ten stalls to satisfy parking requirements, depending on occupancy of commercial spaces. (Different commercial uses have different parking requirements). As such, parking is deficient by about five stalls. While parking is an issue in the neighbourhood, the lack of five parking stalls would have little perceptible impact in the area and could otherwise be considered under a minor variance approval procedure. The commercial uses would likely be locally focussed and would not draw a large amount of customer vehicle traffic.</p>		
<b>Height</b>	16.92	TAR (H15) – maximum 15m	<p>There is a mixture of low and high rise buildings in the area. On the block face there are only-rise buildings.</p>
<i>Assessment:</i>	<p>The height of the building would be 1.92m taller than the maximum under the Zoning Bylaw. There is a height overlay of 15m established for this area, which “allows for an increased residential density, while also being an appropriate transition height between the house form buildings of the Transitional Area and existing and future high-rise apartments,” according to the Transitional Area Development Plan. While the proposed building exceeds the maximum height, it would not have a perceptible impact</p>		

on the surroundings and still provides for a transition between high-rise and house form buildings.
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### Sun Shadow Impact

The Administration reviewed the impacts of sun shadowing through the use of its 3D model. Of particular concern was the impact on the activity areas within Central Park and on residential properties to the north. The review compared the proposed building to a hypothetical building that conforms to the existing zoning, being 15 m in height with a 5 m front yard setback. The review concludes that there would not be a large negative impact on the comfort and usability of the activity area of Central Park. There would be no impact during the summer solstice. During the equinox the proposed building would shadow the activity area for an additional 20-30 minutes between 4:00 pm and 5:00 pm as compared to a building the conforms to the Zoning Bylaw.

However, the reduced setback of the proposed building would cause approximately one hour of additional shadowing of the front of the residential property to the north as compared to a building with a 5m setback.

### Official Community Plan

In accordance with *The Planning and Development Act, 2007*, (Section 40), “no development shall be carried out that is contrary to the Official Community Plan.” This section lists the policies that support and conflict with the proposal and concludes with a summary of the analysis.

#### 1. OCP Policies and Objectives that Support the Proposal

##### Part A- Policy Plan

##### 5.4 Energy Conservation Policies

- a) That a compact urban form should be achieved by:
  - iv) Promoting infill residential redevelopment and rehabilitation.
- c) That vacant inner city sites should be redeveloped in a manner which enhances the amenity of the neighbourhood.

##### 7.1 Housing Objectives

- a) To accommodate the demand for a variety of housing types throughout the city.
- b) To encourage the provision of affordable housing particularly for low and moderate income households and special needs groups.

##### 7.20 Encourage Infill Development of the Inner City

- a) That the City should encourage construction of housing units in the inner city neighbourhood area for households of all social and economic characteristics.
- d) That the City shall encourage infill development to minimize the need for annexing additional land on the periphery of the city.

##### Part F-Transitional Area Development Plan:

##### 3.1 Policy Objectives

#### Primary Policy Objectives

- 1) To provide for residential land use and a viable residential neighbourhood within the Transitional Area through the following General Policy Objectives

#### General Policy Objectives

- 1) To provide housing of a variety of forms and tenure which is affordable to residents of a wide range of incomes and family types.
- 2) To provide for stores and services required by Transitional Area residents for convenience goods and services on a daily basis
- 3) That provision be made for the construction of residential units in conjunction with the development of neighbourhood service uses in the Transitional Area.

#### 3.2.1 Residential Land Use Districts

##### Policy Objectives

- 2) That the retention and construction of a variety of housing and tenure types in the Transitional Area Residential Zone be encouraged.

## 2. OCP Policies that Conflict with the Proposal

#### 7.1 Housing Objectives

- h) To ensure that residential development and redevelopment is compatible with adjacent residential and non-residential development

#### 5.4 Energy Conservation Policies

- q) That relatively uniform setback of houses be encouraged to reduce overshadowing.

### Part F-Transitional Area Development Plan:

#### 3.2 Residential Land Use

##### Policy Objectives

- 1) That those portions of the Transitional Area which are primarily residential in use and/or physical form be a principal location of future residential development in the Transitional Area. Commercial use of any given site within the residential portions of the Transitional Area shall occur only in accordance with this Development Plan.

##### Implementation Recommendations

- 3) New developments shall be encouraged to reflect or respond to the typical building setbacks found in the vicinity of the project site in order to reinforce the streetscape and its qualities.
- 4) New developments shall, in the design, scale, form, articulation, and reflect or respond to streetscape qualities found in proximity to the project site.

#### 3.2.1 Residential Land Use Districts

##### Policy Objectives

- 1) That the primary land use in the Transitional Area Residential Zone, as provided for in this Development Plan, be residential. Commercial uses are a secondary

use in the Zone, located only in house-form buildings.

- 3) That provision be made for the retention and development of contiguous residential land use districts of buildings compatible in height, bulk, siting and massing.

#### Implementation Recommendations

- 4) That a Medium-Rise District be established within the Transitional Area Residential Zone, comprising portions of the north side of 14th Avenue and an area to the west of Central Park, to provide primarily for medium-rise residential land use and, secondarily, at the discretion of Council, for commercial use in existing house-form buildings.
- 5) That in the Medium-Rise District, the height of new development be limited to 15 metres.

#### 3.3.1 Transitional Area Services

##### Policy Objectives

- 2) That neighbourhood service used be clustered together in nodes which will serve as social focal points, with the potential for expansion to better serve current residents and accommodate a future increased Transitional Area population.

#### 3.5.5 Design Review

##### Objective

- 1) To ensure that new developments in the Transitional Area complement and harmonize with existing developments and streetscape near the development site.

#### 4.2 Landscaping and Open Space

##### Objective

- 3) To enhance the unique character of the Transitional Area, including its open space, landscaping, and street trees, through the development of landscaping complementary to an improved pedestrian walkway system through the Area.

### 3. Summary of Policy Analysis

The proposal conforms to several objectives and policies relating to encouraging of infill development, provision of housing, and general policies related to providing for neighbourhood commercial amenities both in Part A-Policy Plan and Part F-Transitional Area Development Plan. From this perspective the proposal responds very well.

Units are designed to be very efficient. Unit sizes are compact and will appeal to an untapped market in the city. The mixed use component of the building would provide commercial amenities to the Centre Square neighbourhood. Furthermore, while the recently approved Downtown Plan Bylaw does not have jurisdictional authority over the subject property, it is within a five minute walk of downtown and would contribute to the goal of increasing the residential population in the downtown.

However, the proposal is not supported by policies related to sensitive design of infill and neighbourhood compatibility. The massing and siting, (namely, the lack of front yard setback) of the building is inappropriate within the context of the building, and does not reflect the character of the neighbourhood.

The Transitional Area Development Plan also does not support a mixed use building at this location. The strategy of the plan is to accommodate commercial uses in house form buildings and to strengthen commercial service nodes located on 14<sup>th</sup> Avenue. The Administration would be willing to support an amendment to the Area Development Plan providing that the building reflects the built form of the surroundings. The site has a history of providing commercial amenity as there was a popular neighbourhood restaurant on the site. Commercial amenities would also encourage more people to enjoy Central Park. While the commercial use is a significant component of the building, it is still secondary to the 66 residential units contained within the building, and is therefore in keeping with the spirit of the Area Development Plan

### **Applicant's Response to Concerns**

The applicant and Administration discussed ways in which to amend the proposal in order for the Administration to support the proposal. However, the Applicant indicated that such changes to the building would not be feasible. The Administration requested that the Applicant provide a written explanation of why the building could not be redesigned. This explanation is provided in Appendix B of this report.

### **RECOMMENDATION IMPLICATIONS**

#### **Financial Implications**

In the short term, the City would forgo the tax revenue that development brings until approval of an acceptable proposal at a future date.

#### **Environmental Implications**

In the short term, the City would forgo environmental benefits that infill development brings to the city until approval of an acceptable proposal at a future date.

#### **Strategic Implications**

The proposal does not represent sensitive infill development as per Official Community Plan policies and is not supported.

#### **Accessibility Implications**

The building would be required to maintain one accessible parking stall and to comply with provisions respecting accessibility in *The Building Bylaw*.



## COMMUNICATIONS

### **Public Input**

The Administration provided notice to the public through the following measures:

- Sign posting of the subject property during the review process;
- Notice sent directly to owners and occupants of property in the vicinity. Approximately 800 notices were distributed;
- Opportunity to attend an open house to learn more about the proposal and provide comment;
- Advertising of the open house on the City website and *The Leader-Post*; and
- Circulation of the proposal to the Centre Square Community Association, and the Central Zone Board.

In total 63 people provided comment on the proposal and 67 people attended the open house. The opinion of those who commented was as follows:

I support the proposal (36)

I would like it more if one or two features were different (11)

I would accept the proposal if many features were different (7)

I completely oppose the proposal (8)

None of the above/ other (3)

A summary of comments and the Administration's response is provided in Appendix D.

The Central Zone Board did not provide comments before the finalization of this report. The Centre Square Community Association provided the following comments:

“We strongly oppose the proposed development at Scarth Street and 15<sup>th</sup> Avenue. We are very concerned with the proposal's disregard of the Scarth Street setback requirements and zoning green space requirement. The proposed development also will destroy the mature street tree frontage on the City property. Overall, the proposal shows a complete lack of sensitivity to the site and the surrounding neighbourhood.”

## DELEGATED AUTHORITY

City Council's approval is required pursuant to Parts IV and V of *The Planning and Development Act, 2007*.

Respectfully submitted,



Diana Hawryluk, Director  
Planning Department

Respectfully submitted,



Jason Carlston, Deputy City Manager  
Community Planning and Development