

Application to Remove Holding Symbol “H” - Portion of 2775 Meadows Parkway – Rosewood Neighbourhood

APPLICATION SUMMARY

Arbutus Properties submitted an application to remove the Holding Symbol “H” from a portion of 2775 Meadows Parkway (Parcel J, Plan No. 102346859). The subject site is located to the east of Meadows Parkway and north of Zimmerman Road, in the Rosewood neighbourhood (see Appendix 1 and 2).

RECOMMENDATION

That City Council consider Administration’s recommendation that the proposed amendment to Bylaw No. 8770, Zoning Bylaw, 2009, to remove the Holding Symbol “H” from a portion of 2775 Meadows Parkway (Parcel J, Plan No. 102346859), as outlined in this report, be approved.

BACKGROUND

On October 31, 2022, City Council conducted a Public Hearing and heard a request from Arbutus to remove the Holding Symbol “H” from 2775 Meadows Parkway (Parcel J, Plan No. 102346859) in the Rosewood neighbourhood. The Administration was not recommending the removal of the Holding Symbol “H”. City Council resolved as follows:

“That the proposed amendment to Bylaw No. 8770, Zoning Bylaw, 2009, to remove the Holding Symbol (H) from a portion of 2775 Meadows Parkway (Parcel J, Plan No. 102346859), as outlined in the October 31, 2022 report of the General Manager, Community Services, be denied.”

Arbutus appealed City Council’s decision to the Development Appeals Board (DAB). The DAB hearing was held on December 8, 2022. The decision of the DAB was received by the City on January 3, 2023. The DAB decision states:

“The Board grants the appeal and directs that:

1. the City shall within 30 days after the effective date of this decision, pass a Bylaw to remove the holding symbol “H” from the subject site, as identified in Exhibit R.1; and
2. Arbutus shall within seven days of the City removing the holding symbol “H” from the subject site, pay the outstanding levies for the subject site as offered in Exhibit A.5, paragraph 69.

The Board notes that the Appellant expressed a willingness to obtain a letter of credit in the amount of \$2.047 million to secure the construction of new services as referred to in Exhibit A.5, paragraphs 65 and 67. This is a matter that can be discussed with the City of Saskatoon.”

The City has the right to appeal the DAB decision to the Saskatchewan Municipal Board within 30 days after the date of receipt of the decision. Therefore, the latest date the City could file an appeal of the DAB’s decision is February 2, 2023.

DISCUSSION

The decision of the DAB has been reviewed by the Administration and we have identified several potential grounds of appeal. These grounds include both substantive grounds and grounds with respect to procedural fairness.

The City and Arbutus have continued discussions since the October Public Hearing, and Arbutus’s position has changed significantly since their pre-hearing discussions with the Administration, and since the October Public Hearing. Arbutus has now agreed to provide a \$2.047 million Letter of Credit related to the lift station and force main construction that they previously had refused to provide and have provided this Letter of Credit in full.

Arbutus has also agreed to pay \$1.33 million plus interest, for the 2775 Meadows Parkway off-site levies that have been outstanding since November of 2021. Interest accrued to December 31, 2022, for the amount owed on 2775 Meadows Parkway is approximately \$82,011. Arbutus has agreed to pay this outstanding amount owed, including interest, within seven (7) days of the Holding Symbol “H” being removed from the site, by resolution of City Council, should Council choose to do so. Should payment not be forthcoming within this timeframe, Arbutus has agreed they will not apply for, nor receive, a building permit for any buildings at 2775 Meadows Parkway, other than a foundation permit.

These two concessions by Arbutus resolve the primary outstanding unsecured amounts owed to the City related to 2775 Meadows Parkway. The table shown in Appendix 3 summarizes the amounts that have been in dispute, other payments owing, and the status of each item prior to the October 2022 Public Hearing, compared with the status of the item today. Resolving these financial matters significantly reduces the City’s risk exposure as development proceeds, in particular the 2775 Meadows Parkway levies and the lift station Letter of Credit, which were otherwise unsecured liabilities for the City.

With a potential path forward for resolving the Administration’s primary financial concerns, the issue remains how to achieve the City’s objectives and requirements as outlined in the City’s Official Community Plan (OCP). Through further discussion with Arbutus, a concession has been reached where Arbutus agrees the City would take over construction of the lift station, in the unlikely event they have not completed construction by November 30, 2023. The City would use the Letter of Credit for the lift station and force main as the primary source of funding to complete the work and should the Letter of Credit balance not be sufficient to cover remaining construction costs, Arbutus has agreed that any outstanding amounts are additional capital costs incurred by the City that would be charged against future development parcels Arbutus

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owns in Rosewood. With this Agreement, Administration is confident the City’s risk has been reasonably mitigated.

As outlined in the October 2022 report, one of the conditions included in the 2014 Concept Plan amendment was that the Holding Symbol “H” would only be removed when the criteria was met that included “Adequate sewer, water and servicing capacity, to the satisfaction of the General Manager of Utilities and Environment”. The Agreement reached with Arbutus includes a number of controls in addition to the takeover clause described earlier in this report. Additional measures include but are not limited to: not providing water or water meters to the building; a plug being inserted into the sewer connection for the building; the building being physically disconnected from the City’s sanitary sewage system; and the City refusing to issue occupancy permits for the building. Considering all factors, the Administration is prepared to consider this condition as being satisfied for 2775 Meadows Parkway. However, it must be noted that this solution is not consistent with the City’s typical development process and is being considered acceptable only in this unique circumstance.

Policy Review

In considering removal of the Holding Symbol, Section J-5.1(8)(b) of the OCP specifies that the following criteria will be relevant to the suitability of the proposed development:

- “ (i) Capacity of Servicing - the capacity of existing municipal services or the economic provision of new services to facilitate such use and development;
- (ii) Transportation System - the effects of such use and development upon the transportation and public transit systems;
- (iii) Environmental Concerns – the need to minimize or remediate environmental impacts or conditions in relation to air, water, soil, or noise pollution;
- (iv) Natural or Historical Features – the need to protect any significant natural or historical feature upon or adjacent to the land; and
- (v) Other Circumstances - any other matter that Council deems necessary.”

As outlined in the October 2022 report, the criteria for “Capacity of Servicing” has not yet been met for this area of Rosewood, as 2775 Meadows Parkway and the surrounding area is currently at 100% servicing capacity and cannot accommodate any further development. The City maintains this position; however, the Agreement reached with Arbutus ensures sanitary sewer servicing capacity is protected for areas of Rosewood not subject to the Holding Symbol “H”. The Agreement would allow Arbutus to proceed with development of the second multiple-unit dwelling on 2775 Meadows Parkway while ensuring connection to the sanitary sewer is not provided until the lift station and force main are fully constructed and fully operational. Furthermore, the economic provision of new services is addressed through provision of the \$2.047 million Letter of Credit related to the lift station and force main construction and payment of the \$1.33 million, plus interest, for the 2775 Meadows Parkway off-site levies. Again, this

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solution is not consistent with the City’s typical development process and is being considered acceptable only in this unique circumstance.

Comments from Other Divisions/Departments

The review of the application to remove the Holding Symbol “H” from a portion of 2775 Meadows Parkway has been done in collaboration with the Community Services Division, Transportation and Construction Division, and the Utilities and Environment Division.

Conclusion

The Agreement reached by the Administration and Arbutus is included as Attachment 4. The Agreement represents a compromise for both the City and Arbutus. Although the City could appeal the DAB decision, and the Administration believes there are strong grounds for an appeal, an appeal would delay the development and does not allow the parties to control the outcome of this matter. Considering all factors, the Administration is recommending that City Council approve the removal of the Holding Symbol “H” designation from 2775 Meadows Parkway, which will allow development to proceed with a significantly reduced risk profile for the City relative to where things were at heading into the October 2022 Public Hearing.

COMMUNICATIONS AND ENGAGEMENT

As the zoning regulations for the underlying zoning district shall apply upon the removal of the Holding Symbol, further public consultation and consideration by the Municipal Planning Commission is not required.

PUBLIC NOTICE

Pursuant to Section 11(a) of Council Policy C01-021, the Public Notice Policy, a public notice is not required for consideration of this matter and may proceed directly to a Public Hearing.

APPENDICES

1. Rosewood Land Use Concept Plan
2. Proposed Rezoning Location Map
3. Summary - Status of Amounts Owed by Arbutus
4. City/Arbutus January 2023 Agreement

REPORT APPROVAL

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