

11.4.7 [Notice of Motion - Restrictive Covenant at 6 New ST SE - No More Blank Walls on Public Spaces, PFC2021-0117](#) 

Moved by Councillor Carra

Seconded by Councillor Farrell

That with respect to Notice of Motion PFC2021-0117, the following be adopted:

NOW THEREFORE BE IT RESOLVED THAT Administration undertake any necessary advertisements regarding a proposed disposition of a restrictive covenant at below market value (nominal consideration) on a public park, pursuant to the *Municipal Government Act* (Alberta), and report back to Council through the Standing Policy Committee on Utilities and Corporate Services;

AND FURTHER BE IT RESOLVED THAT the service fee for Administration's services not be charged to the landowner, potentially being drawn from the tax uplift on the Application until it is paid off at which point the totality of 4 New Street SE's taxes shall be submitted to general revenue;

AND FURTHER BE IT RESOLVED THAT Administration ensure that the Guidebook for Great Communities has sufficient policy to ensure that it will be easier to have openings on public spaces and also to report back to Council through the SPC on Utilities and Corporate Services no later than 2022 March 30 with an improved process that would allow The City to enter into restrictive covenant agreements to extend the limiting distance to ensure no more blank walls on public spaces without having to seek Council approval for every case.

For: Mayor Nenshi, Councillor Farkas, Councillor Gondek, Councillor Chahal, Councillor Davison, Councillor Keating, Councillor Woolley, Councillor Carra, Councillor Chu, Councillor Colley-Urquhart, Councillor Farrell, Councillor Magliocca, Councillor Sutherland, and Councillor Demong (14)

MOTION CARRIED



Report Number: PFC2021-0117

Meeting: Priorities & Finance Committee

Meeting Date: 2021 January 12

NOTICE OF MOTION

RE: Restrictive Covenant at 6 New ST SE - No More Blank Walls on Public Spaces

Sponsoring Councillor(s): COUNCILLOR GIAN CARLO CARRA

WHEREAS the owners of 4 New ST SE (A3; 17;1,2) submitted a Development Permit Application DP2020-3048 almost a year ago, which proposes a single family dwelling;

AND WHEREAS The City of Calgary is the owner of the adjacent property at 6 New ST SE (A3;17;1) which currently functions as non-reserve open space (an off-leash dog park and a portion of the Bow River Pathway System), and shares a property line with the Applicant's Property;

AND WHEREAS the Application proposes that the northerly building face of the single detached dwelling face the park with windows and decks and doors;

AND WHEREAS the National Building Code – Alberta Edition requires that unprotected openings be restricted in size and number within a limiting distance setback from the property line of a parcel with the aim of reducing the probability of fire spreading from one building to another adjacent building;

AND WHEREAS the Application proposes more unprotected openings in number and/or size, than is otherwise permitted under the Code given the distance between the proposed building and the property line;

AND WHEREAS while the Code technically applies in this case but practically does not apply as there are no circumstances in which the City would build or allow to be built a structure on the parkland that could catch on fire next to the Application;

AND WHEREAS Council has previously directed Administration to develop processes to promote passive through active interfaces between private parcels and public space through the 2016 NoM No More Blank Walls on Public Spaces;

AND WHEREAS this Application has been delayed due to Administration not having developed such processes and the Applicants are currently being asked to purchase a restrictive covenant, registered against the City Property in favour of the Applicant's Property, which would prohibit development in a specific area of the City Property as shown on the attached site plan;

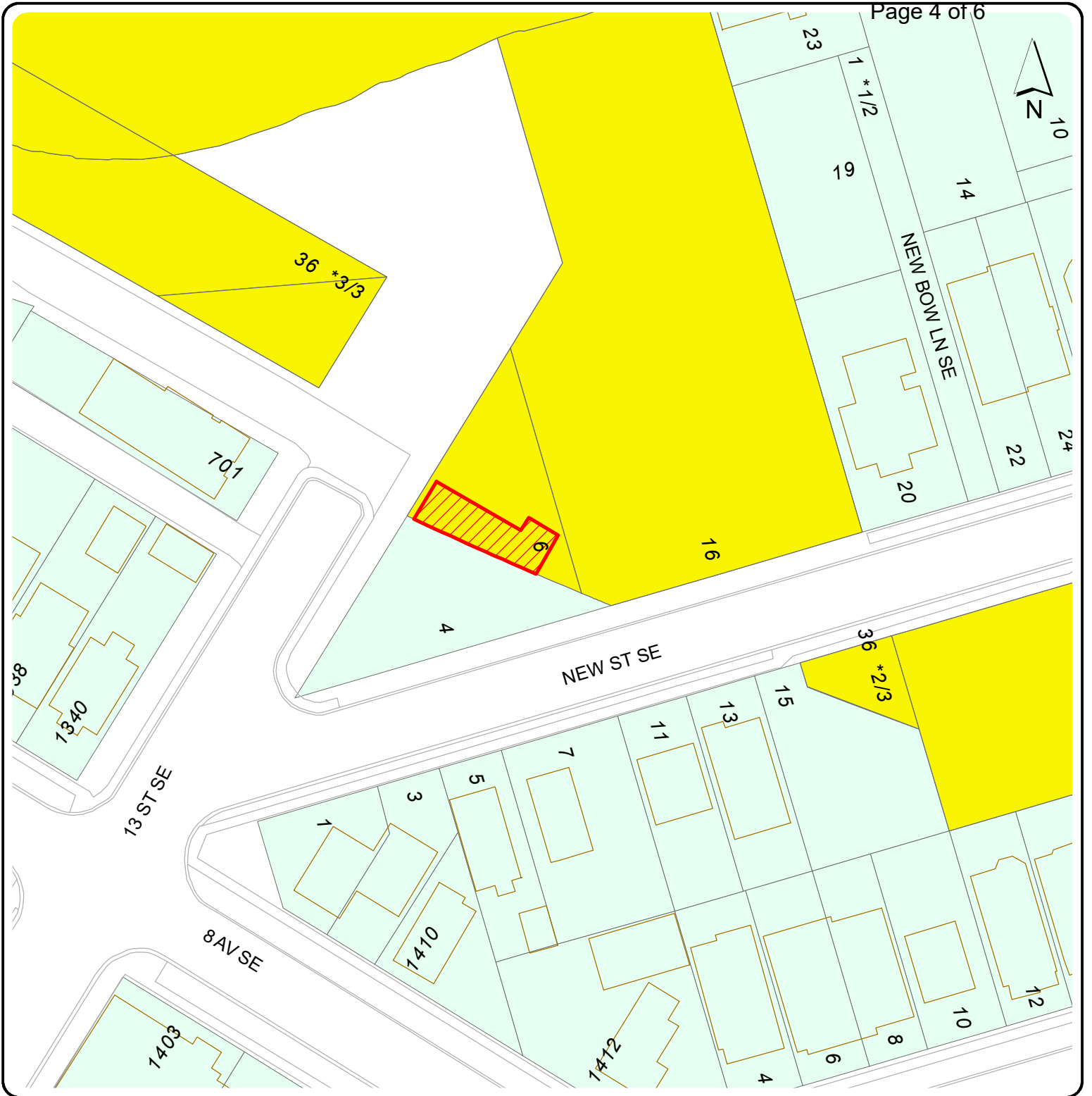
AND WHEREAS standard practice for Real Estate & Development Services is to administer dispositions of land (including restrictive covenants) at market value;


NOW THEREFORE BE IT RESOLVED THAT Council authorize the Director, Real Estate & Development Services to approve the terms and conditions for a restrictive covenant agreement (including approving of any rectifications, corrections, changes, additions, amendments or deletions of any terms and conditions which are necessary in order to facilitate the negotiation, completion and administration of such restrictive covenant) in exchange for an Administrative fee to be determined by the Director of Real Estate and Development Services,

but at nominal consideration, which prohibits development on a portion of the City Property in favour of the Applicant's Property in support of the Application as shown on the attached site map (more or less), subject to confirmation that the restrictive covenant area is determined to be surplus to municipal requirements through standard circulation processes under the Corporate Land Management Framework, and any requirements to advertise the disposition of land below market value pursuant to the *Municipal Government Act* (Alberta);

AND FURTHER BE IT RESOLVED THAT the service fee for Administration's services be drawn from the tax uplift on the Application until it is paid off at which point the totality of 4 New Street SE's taxes shall be submitted to general revenue;

AND FURTHER BE IT RESOLVED THAT Administration ensure that the Guidebook for Great Communities has sufficient policy to ensure that there will be no more blank walls on public spaces is and also to report back to Council through the SPC on Utilities and Corporate Services no later than 2022 March 30 with an improved process that would allow The City to enter into restrictive covenant agreements to extend the limiting distance to ensure no more blank walls on public spaces without having to seek Council approval for every case.



 Restrictive Covenant
± 108.144 m² (± 1,164.05 ft²)

 City-Owned Land

6 NEW ST SE

NOTICE OF MOTION CHECKLIST

The checklist is a tool intended to support the sponsor(s) of a Notice of Motion. The items listed below are important considerations when crafting and submitting a Notice of Motion. It is also intended to support other Members of Council, as the same considerations are important when reaching a decision on a Notice of Motion.

The checklist is therefore an opportunity for the sponsor(s) to:

- consider what advice might be helpful to them in formulating their proposal; and
- share key points about the advice received with their Council colleagues, to inform their deliberations.

This document is recommended to be provided to City Clerks alongside every Notice of Motion and will become part of the Corporate record. It is at the discretion of the sponsor(s) to decide with whom to consult and what information to include.

Title of the Motion: **Restrictive Covenant at 6 New ST SE**
No More Blank Walls on Public Spaces V2.0

There are two classifications of a Notice of Motion (Check the one that applies):

- Regular
- Urgent (Include details in Urgency Rationale box below)

Is this Notice of Motion Confidential? (Include details in Procedural box below)

Financial and Other Resource Capacity
This is cost-avoidance, property tax base-enhancing work that Council has previously directed but which has not been successfully undertaken yet. This motion seeks to solve a one-off issue that has been created by the failure to address this issue at a systemic level and directs administration to complete the work of developing a systemic solution.
Legal / Legislative
The Law Dept is aware of this work and how the Guidebook for Great Communities has the ability to systemically solve this issue.

Technical Content
Have been working with REDS through this process.
Procedural (Including reasons for confidentiality)
Other Considerations
Urgency Rationale
It should not take a year to provide approval for a single detached dwelling simply because it is seeking to face a City park with windows. Any further delays will result in this application taking more than a year to be approved.