Minutes – Executive Policy Committee – September 12, 2018

REPORTS

Item No. 4 Rezoning – 939 Mountain Avenue
(Point Douglas Ward)
File DAZ 207/2018 [c/r DAV 126024/2018D]

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and recommended to Council:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 207/2018 dated May 7, 2018 to a "C1" Commercial Neighborhood District, subject to the following:

    A. That the applicant enter into, execute and deliver a Zoning Agreement with the City of Winnipeg pursuant to Subsection 240(1) of the City of Winnipeg Charter to include the following conditions:

        i. That the Owner must submit plans showing the location and design of any and all proposed:

            a. Buildings
            b. Accessory parking areas
            c. Private approaches
            d. Fencing
            e. Landscaping

            On the Owner's Land ("Works") to the City's Director of Planning, Property and Development ("Director") prior to the issuance of any building or development permit, and thereafter must construct and maintain the Works to the satisfaction of the Director of Planning Property and Development.

        ii That the height of any building shall be limited to 30 feet.

2. That in lieu of the dedication of land, the developer shall provide a cash payment representing 10% of the appraised value of the Development application as determined by the City.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

3. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

4. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

5. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

6. That the by-law shall come into force and effect when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed, failing which the by-law shall expire and the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of the one year period and Council approves the extension.

7. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement

8. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

DECISION MAKING HISTORY:

Moved by Councillor Pagtakhan,

That the recommendation of the Lord Selkirk-West Kildonan Community Committee be concurred in and forwarded to Council.

Carried

COMMUNITY COMMITTEE RECOMMENDATION:

On July 17, 2018, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Rezoning – 939 Mountain Avenue**
File DAZ 207/2018

For submission to: **Executive Policy Committee**

Prepared by: **P. Prinsloo, Committee Clerk**
Lord Selkirk – West Kildonan Community Committee

Report date: **July 17, 2018**

COMMUNITY COMMITTEE RECOMMENDATION:

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1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 207/2018 dated May 7, 2018 to a "C1" Commercial Neighborhood District, subject to the following:

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8. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

The Lord Selkirk – West Kildonan Community Committee provided the following supporting reason(s) for its recommendation:

1. Good rezoning project for a nail and hair salon, repurposing a vacant building.
2. Is on a major bus route and regional street and there are ways to cross for folks who are looking to cross the street at Robertson and Mountain.
3. The business hours are consistent with the Zoning By-law.

PUBLIC HEARING SUMMARY

File:	DAZ 207/2018
Before:	East Kildonan-Transcona Community Committee Councillor Sharma, Chairperson Councillor Eadie Councillor Pagtakhan
Public Hearing:	July 17, 2018 Council Building, 510 Main Street
File:	DAZ 207/2018
Applicant:	Uyen Kim Huynh Tran
Subject:	

Premises Affected: 939 Mountain Avenue

Exhibits Filed:

1. Application dated May 3, 2018
2. Notification of Public Hearing dated June 11, 2018
3. Manitoba Status of Title 2905609/1
4. Letter of authorization dated April 24, 2018 from Uyen Kim Huynh Tran and Ngoc Tuan Huynh to Uyen Kim Huynh Tran
5. Surveyor's Building Location Certificate and sketch dated October 18, 2017
6. Plans (4 pages)
7. Report from the Urban Planning and Design Division dated June 27, 2018
8. Inspection Report

REPRESENTATIONS:

In Support:

Uyen Kim Huynh Tran

In Opposition

Nil

For Information:

Lesley Jansen

For the City:

N. Yauk, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File DAZ 207/2018

ADMINISTRATIVE REPORT

Title: DAZ 207/2018 – 939 Mountain Avenue

Issue: An application for consideration at the public hearing to rezone the property from an "R1-M" Residential Single-Family District to a "C1" Commercial Neighborhood District to allow the establishment of a salon (hair & nail) and for the maintenance of a single-family dwelling within the existing building.

Critical Path: Lord Selkirk-West Kildonan Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
Femi Ojo	B. Smith	n/a	

RECOMMENDATIONS

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 207/2018 dated May 7, 2018 to a "C1" Commercial Neighborhood District, subject to the following:

    A. That the applicant enter into, execute and deliver a Zoning Agreement with the City of Winnipeg pursuant to Subsection 240(1) of the City of Winnipeg Charter to include the following conditions:

        i. That the Owner must submit plans showing the location and design of any and all proposed:

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8. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

REASON FOR THE REPORT

- The applicant is proposing to rezone the site from “R1-M” Residential Single-Family District to a “C1” Neighborhood Commercial District in order to establish a salon (hair & nail) and for the maintenance of a single-family residential dwelling within the existing building.
- Rezoning applications require a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- The Report is being submitted for the Committee’s consideration of the development application at the Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Urban Planning Division are concurred in, the land will be rezoned from “R1-M” Residential Single-Family District to “C1” Commercial Neighborhood District.

CONSULTATION

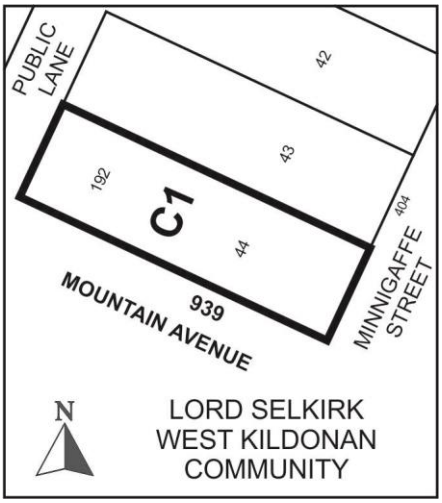
In preparing this Report there was consultation with:
N/A

SUBMITTED BY

Department	*Planning, Property and Development*
Division	*Urban Planning and Design*
Prepared by	Femi Ojo, MCIP, RPP
Date:	June 27, 2018
File No.	DAZ 207/2018

APPENDIX 'A'

DATE:	June 27, 2018
FILE:	**DAZ 207/2018**
RELATED FILES:	DAV 18-126024/D
COMMUNITY:	Lord Selkirk-West Kildonan
NEIGHBOURHOOD #:	3.312 (Robertson)
SUBJECT:	To rezone the subject land from an "R1-M" Residential Single-Family District to a "C1" Commercial Neighborhood District
LOCATION:	939 Mountain Avenue
LEGAL DESCRIPTION:	LOT 44 BLOCK 10 PLAN 192 43/4W ST J



APPLICANT:	UYEN KIM HUYNH TRAN 43 COURTLAND BAY Winnipeg MB R2P 2X1
OWNER:	UYEN KIM HUYNH TRAN & NGOC TUAN HUYNH 43 COURTLAND BAY Winnipeg MB R2P 2X1
RECOMMENDATION:	Approval, with conditions

SITE DESCRIPTION

- The subject property is located at the northwest intersection of Mountain Avenue and Minnigaffe Street in the Robertson Neighbourhood of the Point Douglas Ward.
- Existing on the subject property is a two storey structure with a commercial store on the ground floor and a residential unit above grade.
- The subject site is within an Area of Stability – Mature Communities Policy Area under the *Complete Communities Direction Strategy*. The property is zoned “R1-M” Residential Single-Family District.



Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2016)*

SURROUNDING LAND USES AND ZONING

North: Residences zoned “R1-M” Residential Single-Family.

South: Mountain Avenue, then residences zoned “R1-M” Residential Single-Family.

East: Minnigaffe Street, then residences zoned “R1-M” Residential Single-Family.

West: Backlane, then residences zoned “R2” Residential Two-Family.

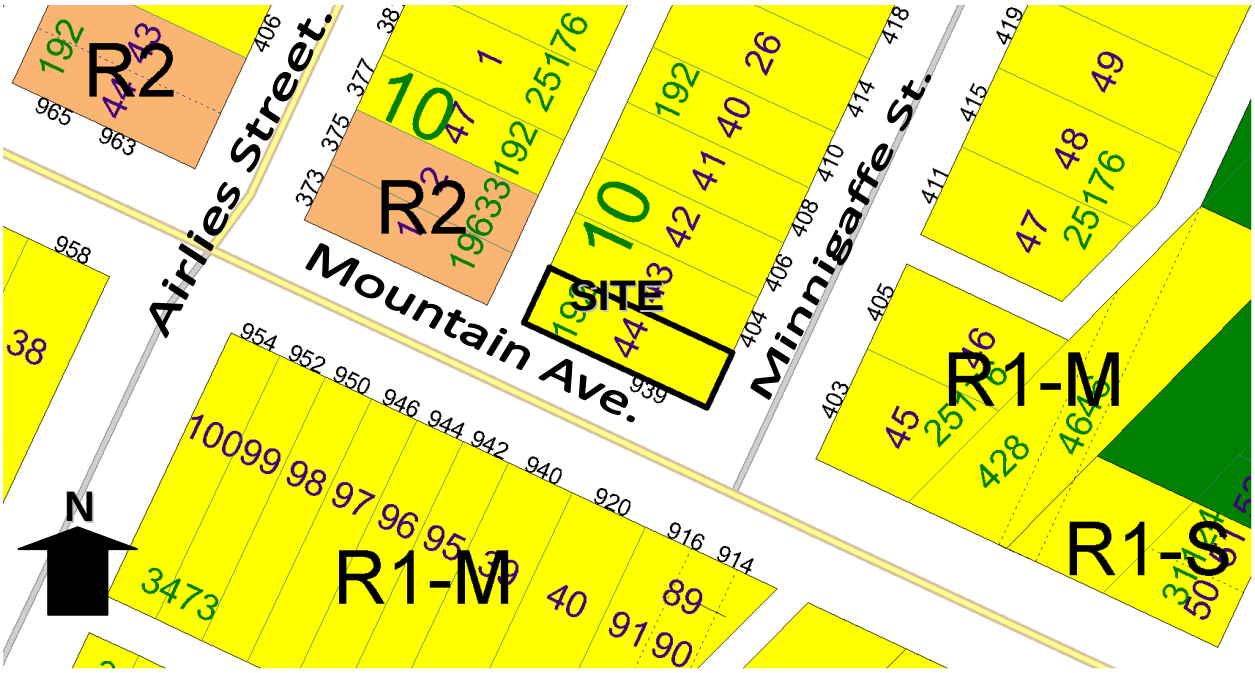


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to rezone the property from “R1-M” Residential Single-Family District to “C1” Commercial Neighborhood District. The intent is to maintain the existing building.
- There are variances associated with the footprint of the existing structure as it does not meet the dimensional standards of the proposed “C1” zoning district (See DAV 18-126024D).
- The applicant wishes to establish a nail and hair salon on the ground floor and a residential unit on the first floor.
- The applicant has submitted plans showing the location of the existing building, site plan and floor plan for the proposed development.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- The site is located within the Areas of Stability – Mature Communities policy area. The key relevant policy guiding the development of Areas of Stability under the *Complete Communities Direction Strategy* includes:
    - Support low to moderate change in low-density neighborhoods through development and redevelopment that is complementary to the existing scale, character and built form.
    - Support a mix of commercial services and employment uses that serve the local community.

- Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.

ZONING AND LAND USE BY-LAW 200/2006

- **R1-M Residential Single-Family District -** is intended to accommodate primarily single-family residential development in lower-density areas.

- **C1 Commercial Neighborhood District** is intended to accommodate small, compact commercial uses within or surrounded by residential areas that are attractive and compatible in scale and character with surrounding residential uses to serve the convenience needs of the surrounding neighborhood. C1 districts are generally located in Neighborhood or Community mixed use centers or along Neighborhood or Community mixed use corridors.

Rezoning (DAZ 207/2018)

- The applicant is proposing to rezone the site from "R1-M" Residential Single-Family District to "C1" Commercial Neighborhood District in order to establishment a residential and commercial uses.
- The applicant did not opt for a home based business because of the configuration of the existing building. The ground floor has always being a commercial unit while the upper storey had residential units.
- Aside from the above, a home based business comes with a lot of zoning restrictions, which does not fit the business model of the developer.

Variances (see DAV 18-126024/D)

- The applicant has applied for several variances to facilitate the project as proposed.
- This administrative report only speaks to issues relating to the rezoning of the subject property. Further discussion relating to the variances will be addressed in the concurrent variance report.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The *Complete Communities Direction Strategy* encourages moderate change in low-density neighborhoods through development and redevelopment that is complementary to the existing scale, character and built form.
- There are multiple variances required in association with the proposed use on site. Many of these variances are unavoidable because the applicant is maintaining the existing building, which does not meet the dimensional standards of the proposed "C1" zoning district (See planner's report for DAV 18-126024/D).
- The height cap is necessary to ensure that any future redevelopment of the site is consistent with the existing neighborhood built form and character.

- Being that the subject site has always been a commercial store, the proposed hair and nail salon on the ground floor will not cause any adverse effect on the immediate residential properties.

- The proposed development is a creative repurposing of an existing structure without any changes to the footprint of the building.

- It is therefore recommended that the rezoning application be approved.

Building Height

- With the rezoning of the property from “R1-M” to “C1”, a future redevelopment of the property could potentially see structures up to a maximum of 39 feet tall.
- The Urban Planning Division feels that because the neighbourhood is primarily characterized as single family residential, the condition to limit height to a maximum of 35 feet will help preserve the character of the neighbourhood while accommodating the proposed commercial/residential use.

Plan Approval

- The Urban Planning Division is recommending that final plans be submitted to the Director of Planning, Property and Development and the Lord Selkirk-West Kildonan Community Committee should there be a redevelopment of the site, for review prior to the issuance of a development permit on the site. The inclusion of this clause will allow the Urban Planning Division and the Lord Selkirk-West Kildonan Community Committee to review final plans before development takes place for any future developments on the site.

LAND DEDICATION

- When a developer rezones and/or subdivides a parcel of land, they are required to put in an application with the City of Winnipeg.
- As a condition of rezoning or subdivision, a developer is required to contribute a portion of the land to be developed to the City for parks purposes.
- The amount of land is not less than 10%.
- The developer is to provide land or ‘cash in lieu’ as determined by the Planning, Property and Development Department.
- The City is requesting cash in lieu for this application.

RECOMMENDATIONS
The Urban Planning Division recommends **approval, with conditions** for the following reasons:

- Having a mixed use (residential and neighborhood salon) aligns with key policies of *Our Winnipeg and Complete Communities Direction Strategy* that are fulfilled by this application.
- Being that the proposed uses are within an existing building, the Urban Planning Division does not foresee any adverse impact on surrounded properties.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning & Design Division
Report Prepared by: Femi Ojo, MCIP, RPP
PPD File # DAZ 207/2018

APPENDIX "B"
Schedule "A" for File No. DAZ 207/2018, Lord Selkirk-West Kildonan Community Committee, dated May 7, 2018.

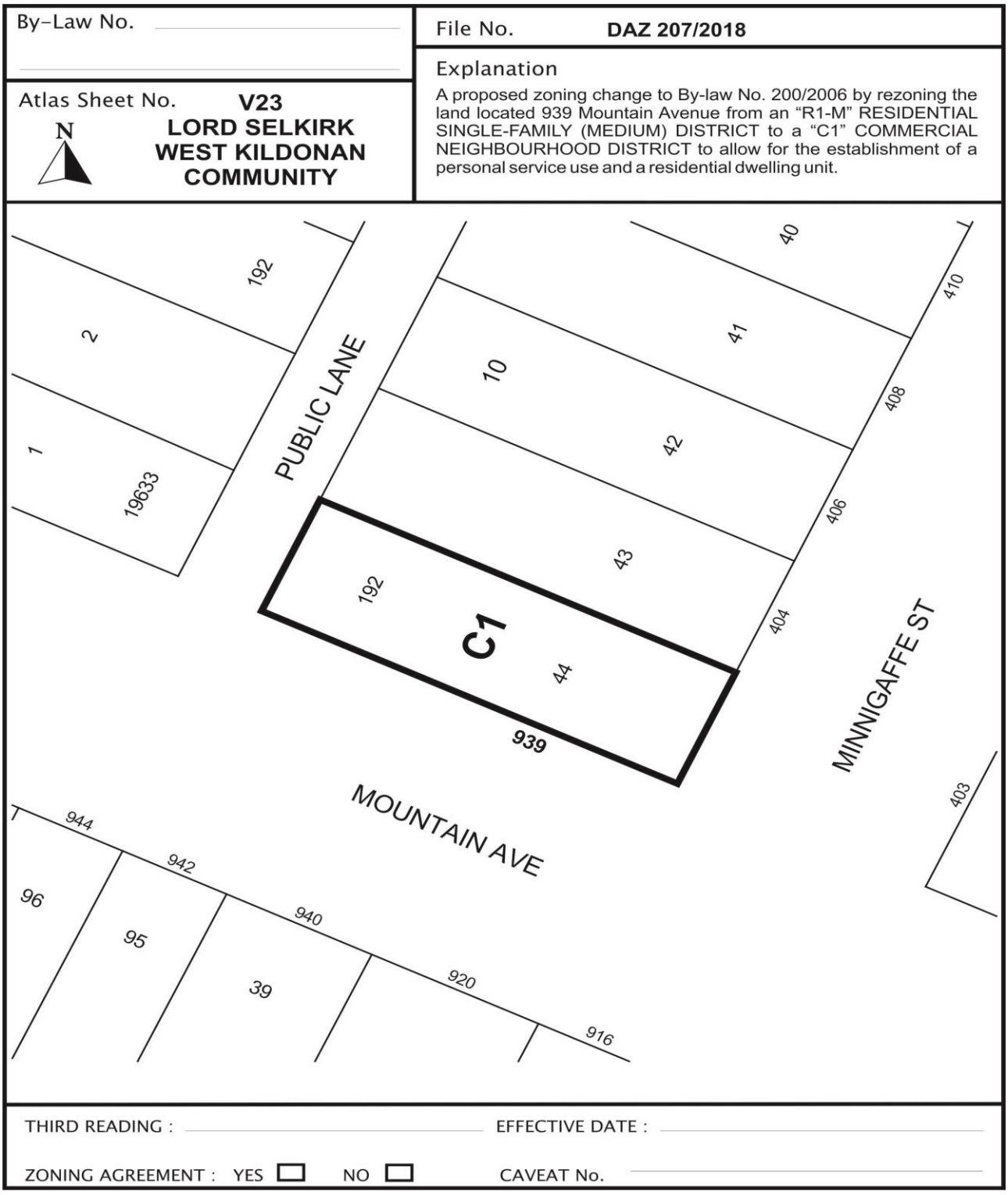
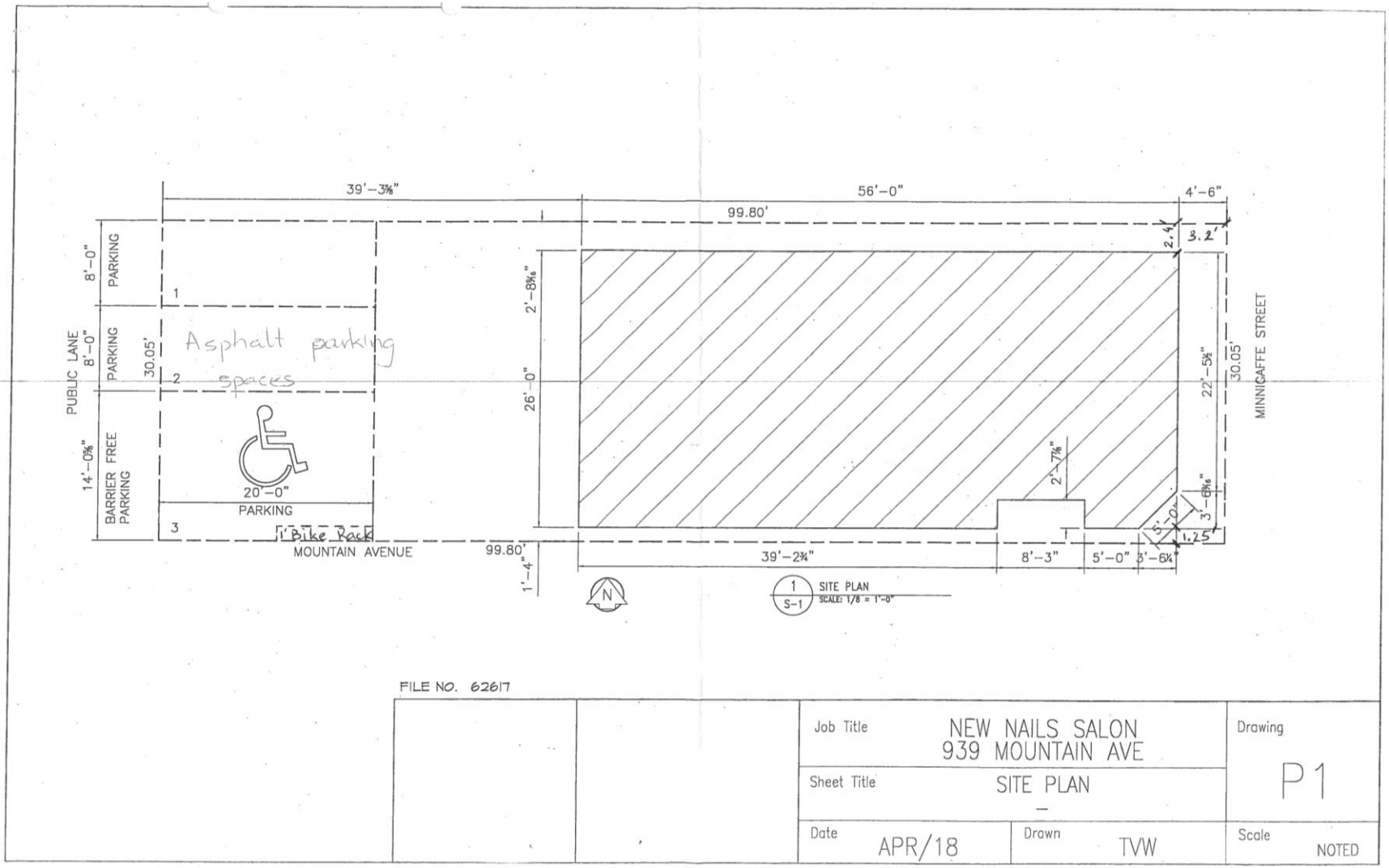
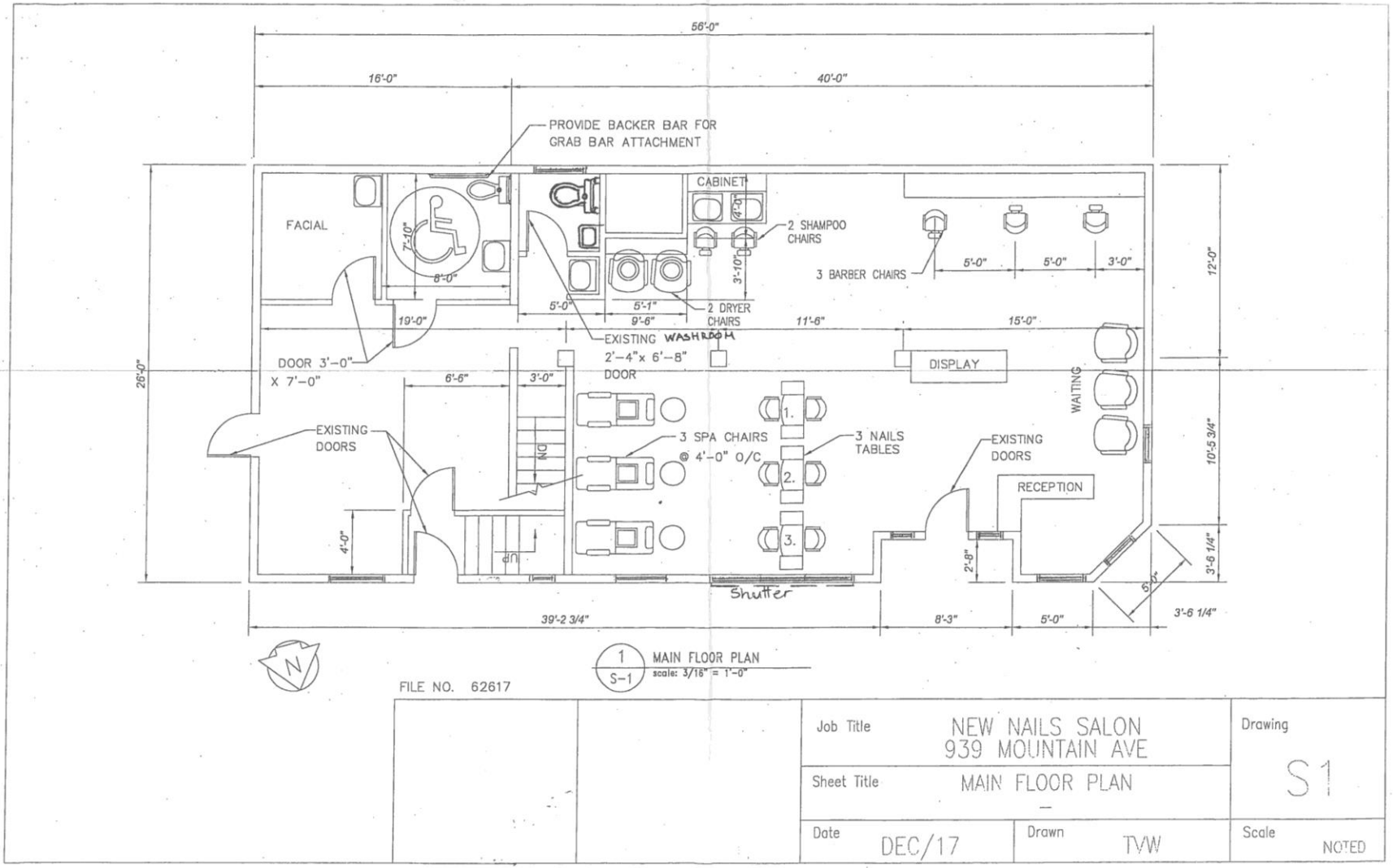


Exhibit “6” referred to in File DAZ 207/2018





FILE NO. 62617

Job Title: NEW NAILS SALON 939 MOUNTAIN AVE		Drawing: S1
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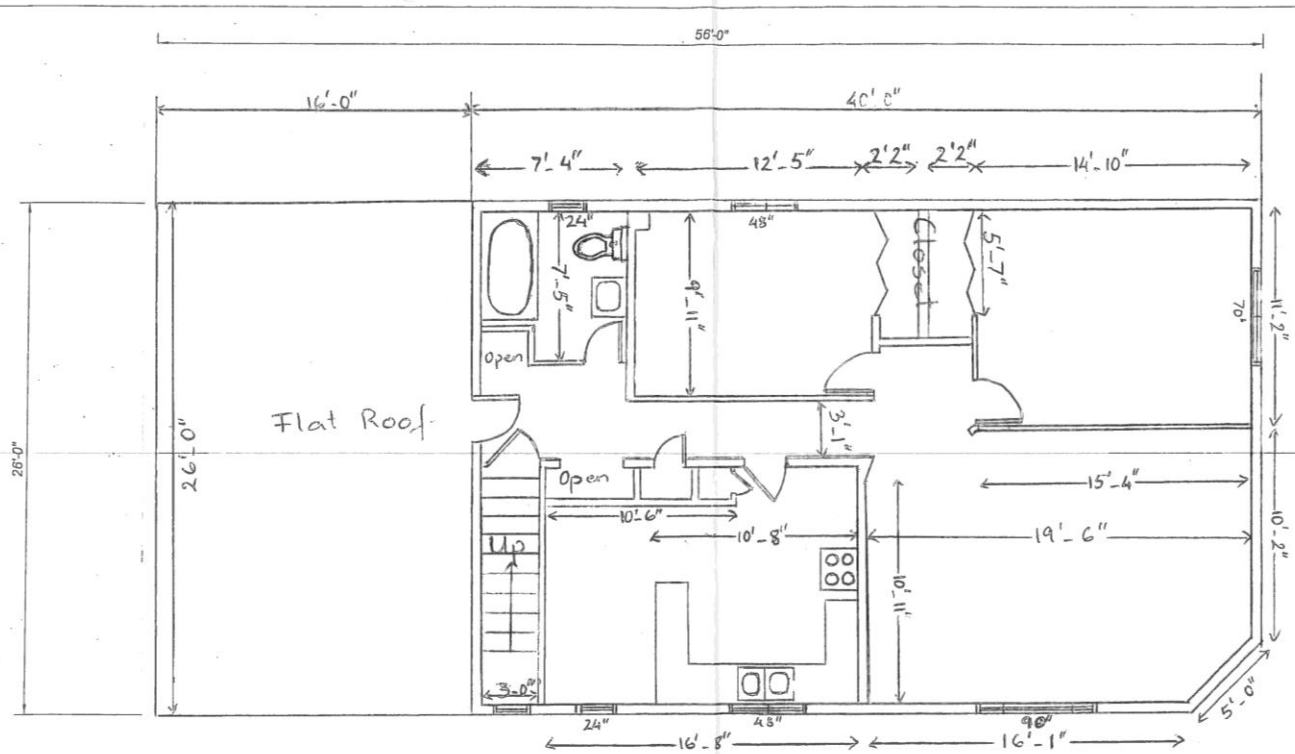

939 MOUNTAIN AVE
SECOND FLOOR

939 MOUNTAIN AVE

BASEMENT

