Agenda – Board of Adjustment – January 8, 2020

PUBLIC HEARINGS

Item No. 19 Variance – 1011 Powers Street
(Mynarski Ward)
File DAV 181577/2019C

WINNIPEG PUBLIC SERVICE RECOMMENDATION:

The Urban Planning Division recommends approval-in-part of the application to vary the "RMF-M" Dimensional Standards of Zoning By-law No. 200/2006 as follows:

1. for the expansion of a multi-family dwelling by the addition of two (2) dwelling units in the basement to permit:

    A. a lot area per dwelling unit of 720 square feet (66.89 square metres) instead of 800 square feet (74.32 square metres);

    B. no additional parking spaces instead of 5 additional spaces;

2. a fence height of 7.5 feet (2.29 metres) for the bike cage instead of 6.5 feet (1.98 metres) in the side/rear yard.

Subject to the following condition(s):

1. That the development shall be constructed in substantial conformance with the plans submitted attached hereto and identified as Sheets 1 through 6 for File No. DAV 19-181577/C dated November 20, 2019, and maintained thereafter to the satisfaction of the Director of Planning, Property and Development;

    OR

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

    A. accessory parking areas;
    B. fencing; and
    C. bike racks;

    on the Owner's Land ("Works") to the Director of Planning, Property and Development for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

Agenda – Board of Adjustment – January 8, 2020

File:	DAV 181577/2019C
Applicant:	Clearwater Investments Inc. (Jannice Benamir)
Premises Affected:	1011 Powers Street
Legal Description:	LOT 6/8 BLOCK 5 PLAN 836 13 K, hereinafter called “the land”
Property Zoned:	"RMF-M" Residential Multi-Family-Medium
Nature of Application:	To vary the "RMF-M" District Dimensional Standards of the Winnipeg Zoning By-law No. 200/2006 as follows: 1. for the expansion of a multi-family dwelling by the addition of 2 dwelling units in the basement to permit: a. a lot area per dwelling unit of 720 square feet (66.89 square metres) instead of 800 square feet (74.32 square metres); b. no additional parking spaces instead of 5 additional spaces; 2. a fence height of 7.5 feet (2.29 metres) for the bike cage instead of 6.5 feet (1.98 metres) in the side/rear yard.
Exhibits Filed:	1. Application dated December 2, 2019 2. Notification of Public Hearing dated December 10, 2019 3. Manitoba Status of Title 2757516/1 4. Letter of authorization dated November 18, 2019 from Michael Romani, Clearwater Investments, to Janice Benamir 5. Surveyor’s Building Location Certificate and sketch dated September 13, 2017 6. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising 7. Petition in support of the application purporting to contain the signatures of four area residents, submitted by the applicant 8. Plans, Sheets 1 to 6 inclusive, for File DAV 181577/2019C dated November 20, 2019 9. Report from the Urban Planning Division dated December 18, 2019 10. Inspection Report

The Winnipeg Public Service to advise that all statutory requirements with respect to this application have been complied with.

REPRESENTATIONS:

In Support:

In Opposition:

For Information:

For the City:

Moved by
That the report of the Winnipeg Public Service be taken as read.

Moved by
That the receipt of public representations be concluded.

Moved by

That in accordance with Subsection 247(3) of The City of Winnipeg Charter, the Variance,

(a) ☐ is consistent ☐ is not consistent
with Plan Winnipeg, and any applicable secondary plan;

(b) ☐ does not create ☐ does create
a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(c) ☐ is ☐ is not
the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

(d) ☐ is ☐ is not
compatible with the area in which the property to be affected is situated.

Supporting Comments:

Moved by

That the recommendation of the Winnipeg Public Service be concurred in / not be concurred in and the Variance be approved / rejected.

Moved by

That the public hearing with respect to this application be concluded.

Exhibit "9" referred to in File DAV 181577/2019C

ADMINISTRATIVE REPORT

Title: DAV 19-181577\C – 1011 Powers Street

Issue: For consideration at the public hearing for a variance associated with the expansion of an existing multi-family dwelling.

Critical Path: Board of Adjustment as per the Development Procedures By-law and The City of Winnipeg Charter.

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Hayer, MCP	n/a	n/a	

RECOMMENDATIONS

The Urban Planning Division recommends **approval-in-part** of the application to vary the "RMF-M" Dimensional Standards of *Zoning By-law No. 200/2006* as follows:

1) for the expansion of a multi-family dwelling by the addition of two (2) dwelling units in the basement to permit:
    a) a lot area per dwelling unit of 720 square feet (66.89 square metres) instead of 800 square feet (74.32 square metres);
    b) no additional parking spaces instead of 5 additional spaces;
2) a fence height of 7.5 feet (2.29 metres) for the bike cage instead of 6.5 feet (1.98 metres) in the side/rear yard.

Subject to the following condition(s):

1) That the development shall be constructed in substantial conformance with the plans submitted attached hereto and identified as Sheets 1 through 6 for File No. DAV 19-181577/C dated November 20, 2019, and maintained thereafter to the satisfaction of the Director of Planning, Property and Development;

    OR

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

    i. accessory parking areas;
    ii. fencing; and

iii. bike racks;

on the Owner's Land ("Works") to the Director of Planning, Property and Development for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

REASON FOR THE REPORT

- The applicant is proposing to add two units to the basement of an existing multi-family dwelling, resulting in a total of 10 units in the building. No additional parking spaces would be provided beyond the existing seven stalls. Also proposed is construction of a bike cage in the side yard. Variances are required to accommodate the increase in density, relieve the applicant of the requirement to provide additional parking spaces, and accommodate construction of the bike cage.
- Variance applications require a public hearing as per *The Development Procedures By-law* No. 160/2011 and *The City of Winnipeg Charter*, section 249.
- The report is being submitted for the Board of Adjustment'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 proposal can proceed.

FILE/APPLICANT DETAILS

FILE: **DAV 19-181577\C**
RELATED FILES:
COMMUNITY: Lord Selkirk - West Kildonan Committee
NEIGHBOURHOOD #: 3.309 (Jefferson)

SUBJECT: To vary the "RMF-M" Dimensional Standards of Zoning By-law No. 200/2006 as follows:

1) for the expansion of a multi-family dwelling by the addition of two (2) dwelling units in the basement to permit:
    a) a lot area per dwelling unit of 720 square feet (66.89 square metres) instead of 800 square feet (74.32 square metres);
    b) no additional parking spaces instead of 5 additional spaces;
2) a fence height of 7.5 feet (2.29 metres) for the bike cage instead of 6.5 feet (1.98 metres) in the side/rear yard.

LOCATION: 1011 Powers ST
LEGAL DESCRIPTION: LOT 6/8 BLOCK 5 PLAN 836 13 K

APPLICANT: Jannice Benamir

56 Myrtle Street, Winnipeg, Manitoba, R3E 2R1

OWNER: Same as applicant

DISCUSSION

CRITERIA FOR APPROVAL

Pursuant to Section 247(3) of *The City of Winnipeg Charter*, an application for a variance with respect to a property may be approved if the variance:

(a) is consistent with Plan Winnipeg and any applicable secondary plan;

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

(c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

(d) is compatible with the area in which the property to be affected is situated.

SITE DESCRIPTION

The subject site is located at the north east corner of Powers Street and Kingsbury Avenue, in the Jefferson neighbourhood and Mynarski ward.

The site is designated 'Areas of Stability-Mature Community' policy area under the *Complete Communities Direction Strategy* of *OurWinnipeg*, zoned "RMF-M" Residential Multi-Family (Medium) district under the *City of Winnipeg Zoning By-law*.

The site is 7,248 sq. ft. in lot area. Currently on the land is an existing three-storey apartment building containing eight dwelling units and accessory parking area containing seven parking spaces, with access from a public lane to the north.



Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2018)*

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Public lane; then single-family dwellings zoned “R1-M” Residential Single-Family (Medium) district.

South: Kingsbury Avenue, then single-family dwellings zoned “R1-M” Residential Single-Family (Medium) district.

East: Single-family dwelling zoned “R1-M” Residential Single-Family (Medium) district; then multi-family dwelling containing four units on land zoned “RMF-S” Residential Single-Family (Small) district.

West: Powers Street; then multi-family dwelling containing 13 units on land zoned “RMF-M” Residential Single-Family (Medium) district.



Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development involves adding two dwelling units to the basement of an existing multi-family dwelling. The property currently contains eight dwelling units. No exterior modifications or alterations to the existing building are proposed. No additional parking spaces would be provided.

Also proposed is a bike cage comprised of 7.5 foot tall chain link fencing with a gate. The proposed bike cage would be located near the north east corner of the building and provide security for a bike rack. The caged area would be approximately 7 ft. wide by 7 ft. deep.

Please note that the proposed units have already been constructed without the required Building, Mechanical and Electrical Permits. The suites may also have been occupied without occupancy permits. The Owner is currently in the process of obtaining proper permits and the subject application is necessary to grant the land use entitlements necessary for the Owner to proceed.

Collaboration

The subject application came about as result of an enforcement issue, where it was discovered that new units had been constructed in the basement without proper permits being in place. The applicant contacted the Zoning and Permits Branch to initiate the permitting process. At this stage, it was discovered that the development would result in an increase to the density beyond what is permitted under the existing zoning, and would result in the need to add additional parking stalls.

The Public Service advised the applicant that, previously the Urban Planning Division has been supportive of adding additional density to existing dwellings in the Mature Communities policy area, however there are some important considerations:

- the **total density (after adding the new units) must not exceed ten percent of the maximum allowable density under the property's zoning designation, so as to ensure that the zoning by-law is minimally modified;**
- the exterior of the property should not substantially change, so as to ensure the development is compatible with the existing character of the area; and
- if additional parking cannot be provided, there must be a reasonable solution to address the parking needs of future residents, to ensure there is no adverse effect to the surrounding area caused by potential spillover parking.

With respect to the third bullet, the applicant was advised to explore adding secure indoor bike parking or provide a secure outdoor space to accommodate bicycles; and/or enter into an agreement to share parking with an adjacent property.

The Owner decided to pursue adding an outdoor bicycle facility. At this stage, the applicant has not secured any additional off-site parking.

ANALYSIS AND ISSUES

Complete Communities Direction Strategy

The subject property is designated "Areas of Stability – Mature Community" policy area under the *Complete Communities Direction Strategy* of *OurWinnipeg*. Areas of Stability will accommodate low to moderate density infill development to support more efficient use of land, infrastructure, and services as well as enhance housing choice and affordability.

With regards to this proposal, the key relevant policies guiding the development of Areas of Stability include:

> *In order to meet the full life-cycle of housing needs within the community, promote a mix of housing type and tenure, such as duplexes, low rise apartments, secondary suites, semi-detached homes, townhouses.*
>
> *Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.*
>
> *Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character, and built form.*

City of Winnipeg Zoning By-Law

The subject property is zoned “RMF-M” Residential Multi-Family (Medium) district. The “RMF-M” district is intended to accommodate the development of multi-family units in neighbourhoods with medium to high residential densities.

Multi-family development is allowed as a Permitted Use to a density of 800 square feet per dwelling unit. The proposed development, at 720 square feet per unit, represents a variance of ten percent to the maximum allowable density.

Variance Review

The proposed development would add additional dwelling units to the neighbourhood without changing the outwardly appearance of the existing structure. Thus, the proposed increase in density would be generally consistent with the *Complete Communities Direction Strategy* and not be incompatible with the area.

With respect to the parking variance, the applicant is proposing to not provide any additional parking spaces due to site dimensions constraints. The property currently has seven parking spaces on-site.

As a result of the additional units, the property would provide a parking ratio of 0.7 stalls per unit. Please note the required parking ratio is 1.2 stalls per unit (Urban Infill Area parking requirement for multi-family developments) and the bylaw requires an additional five stalls to be constructed. The Public Service is supportive of the parking variance for the following reasons:

- The applicant is proposing to construct a bike rack in the side yard, in a location near the parking area. The bike rack would accommodate eight bicycles.
- **The property is in a location where a minor increase in density is appropriate. The surrounding context includes frequent transit service on Salter Street (one block east); McGregor Street (two blocks west), and Main Street (three blocks east). The site is also within walking distance of parks and schools. For example,** Edmund Partridge Community School on Main Street is within a ten minute walk.
- **The proposed units would be one bedroom suites and it is unlikely there would be a significant parking demand generated as a result.**

Given the above, and that the proposal complies with *Complete Communities* and is compatible with the area suggests the Zoning By-law creates an injurious effect. Subject to conditions of approval, the variance as modified may be considered the minimum modification necessary.

The variance for increased fence height is supportable because it would accommodate a bike cage that functions more similarly to an accessory structure. However, it is not considered an accessory structure because there is no roof being provided.

If the applicant were to modify the bike cage by adding a roof, then there would be additional variances necessary because the structure would be regulated by the same dimensional standards applicable to the principal building (due to the underlying zoning of the property), in which case more significant variances for yards would be triggered. In this way, the proposed variance for fence height can be considered the minimum modification to the bylaw.



Figure 4: Location of proposed bike cage.

REASONS FOR RECOMMENDATIONS

In the context of Section 247(3), the Urban Planning Division recommends **approval** for the following reasons:

(a) is consistent with Plan Winnipeg and any applicable secondary plan;

In that, *the proposed development adds to the variety of housing in the neighbourhood.*

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;

In that, *the proposed development is unlikely to create an adverse effect because the applicant is taking steps to ensure the building complies with code and zoning requirements, as well as providing a bike parking facility to support multi-modal transportation options for residents.*

(c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and

In that, *to the extent the development complies with OurWinnipeg and Complete Communities and is compatible with the area suggests the Zoning By-law creates an injurious effect and variances are necessary to implement the provisions of OurWinnipeg.*

(d) is compatible with the area in which the property to be affected is situated.

In that, *no exterior modifications to the building are proposed which suggests the development would not be incompatible with the area.*

CONSULTATION

In preparing this report there was internal consultation with the Zoning and Permits Branch.

OURWINNIPEG POLICY ALIGNMENT

The property is located within an Area of Stability policy area of *OurWinnipeg* and *Complete Communities*. The proposed development accommodates infill in an area with existing infrastructure.

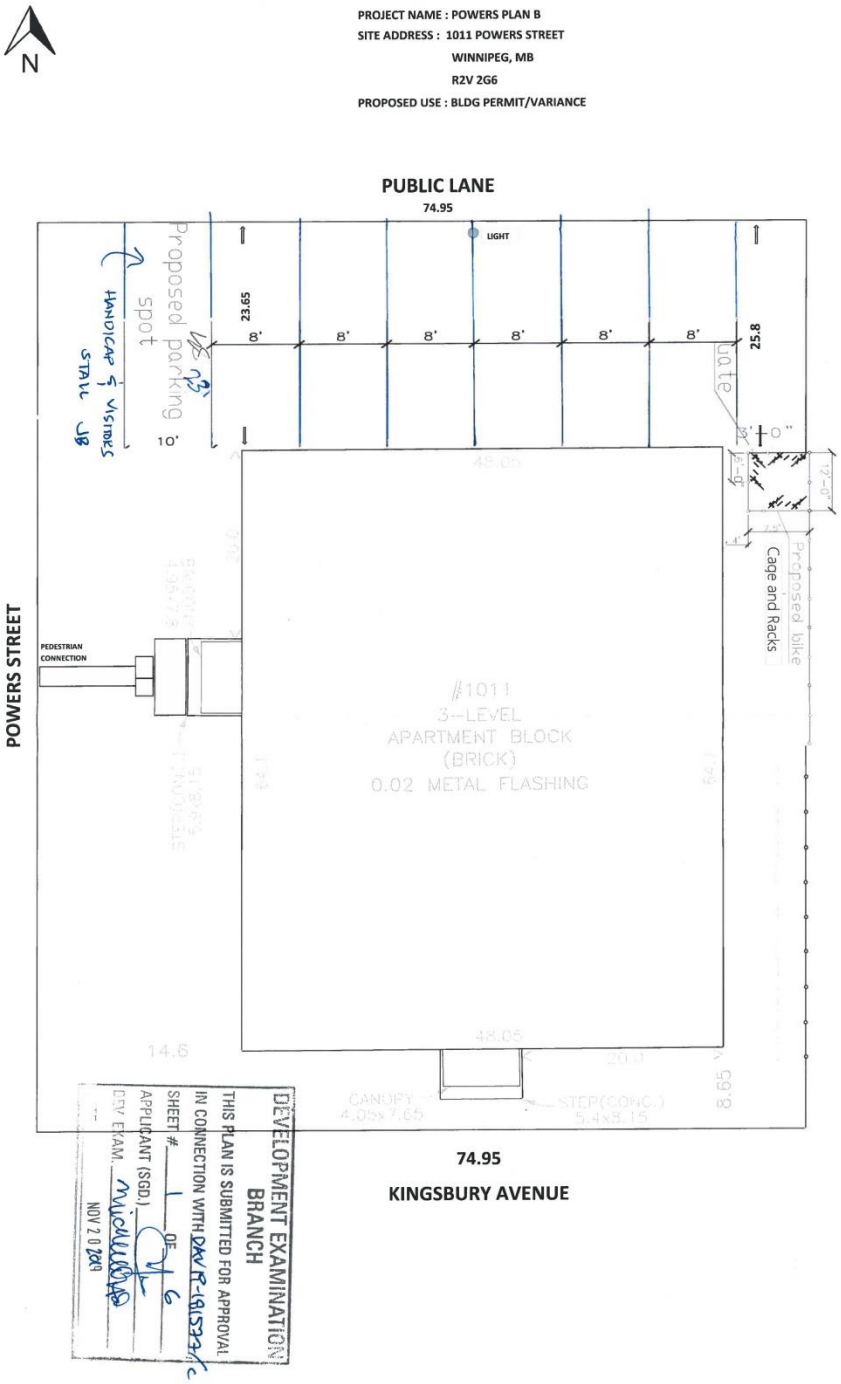
WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

The proposed development facilitates an increase in density by adding additional dwelling units to the subject block, thereby capitalizing on existing infrastructure.

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Urban Planning
Prepared by:	R. Hayer, MCP
Date:	Wednesday, December 18, 2019
File No.	DAV 19-181577\C

Exhibit “8” referred to in File DAV 181577/2019C



PROJECT NAME : POWERS PLAN B

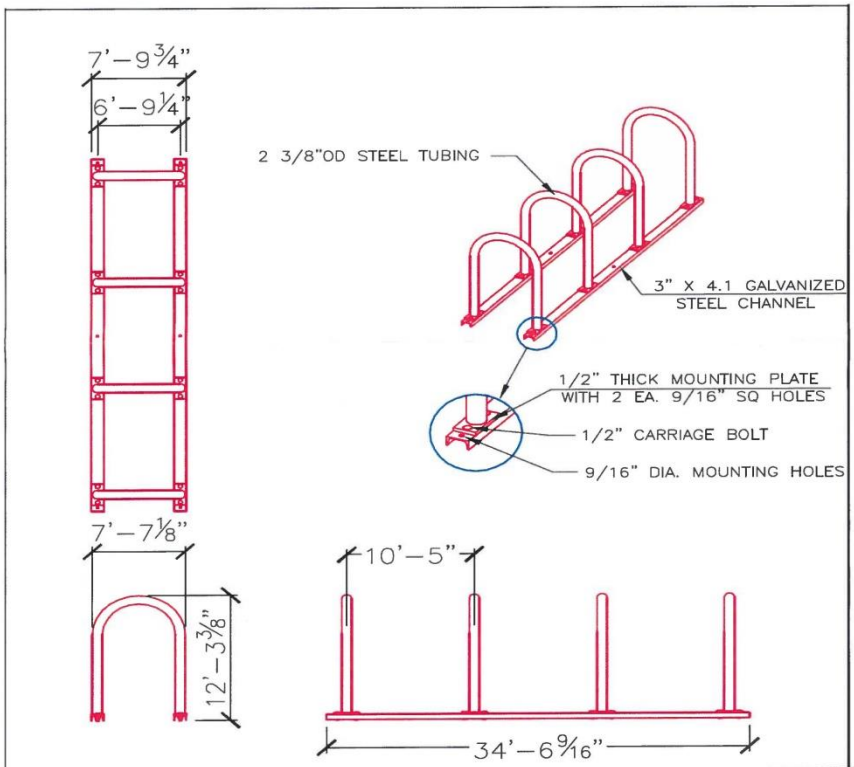
SITE ADDRESS : 1011 POWERS STREET

WINNIPEG, MB

R2V 2G6

PROPOSED USE : BLDG PERMIT/VARIANCE

PROPOSED BIKE RACKS TO BE USED IN BIKE CAGE

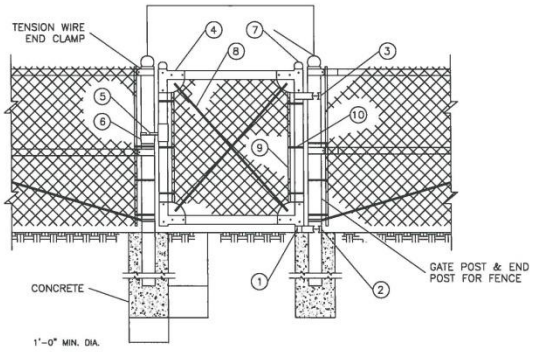


NOTES:
1. INSTALL BIKE RACKS ACCORDING TO MANUFACTURER'S SPECIFICATIONS.
2. CONSULTANT TO SELECT COLOR(FINISH), SEE MANUFACTURER'S SPECIFICATIONS.
3. SEE SITE PLAN FOR LOCATION OR CONSULT OWNER.

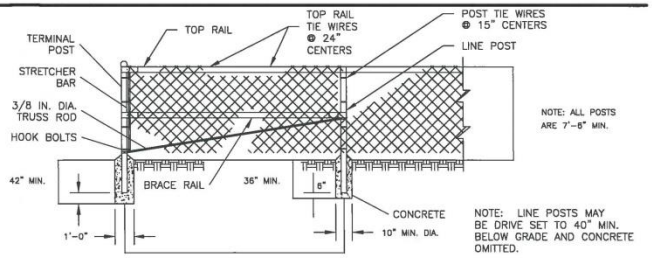
DESCRIPTION: U238 'U' ON RAIL BIKE RACK
8 BIKE, 4 LOOP, SURFACE

PRODUCT: U238–8

DEVELOPMENT EXAMINATION BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL IN CONNECTION WITH DAV19-181537/c
SHEET # 2 OF 6
APPLICANT (SGD.)
EXAM. Michelle
NOV 20 2019



GATE DETAIL



FENCE DETAILS

LEGEND

PART NO.	DESCRIPTION	QUANTITY
1	STRAIGHT PLUG	1
2	BOTTOM HINGE	1
3	TOP HINGE	1
4	CORNER ELBOW	4
5	LATCH FORK	1
6	FORK CATCH	1
7	ORNAMENTAL TOPS	4
8	TRUSS RODS	2
9	STRETCHER BAR	2
10	HOOK BOLTS	6

NOTE:
THE FENCING SHALL BE #9 GAGE FENCE FABRIC, STANDARD 2-INCH CHAIN LINK DIAMOND MESH.

SHAPE, SIZE AND WEIGHT REQUIREMENTS FOR FENCE POSTS AND RAILS

ITEM	SHAPE	OUTSIDE DIMENSIONS INCHES	WEIGHT LBS./LIN. FT.
** TERMINAL POSTS	ROUND	2.375	3.65
	*ROUND	2.375	3.12
LINE POSTS	ROUND	1.90	2.72
	*ROUND	1.90	2.28
TOP & BRACE RAILS	ROUND	1.66	2.27
	*ROUND	1.66	1.84

* GRADE B HIGH STRENGTH STEEL
** INCLUDES END, CORNER, ANGLE, INTERSECTION AND INTERMEDIATE BRACED POSTS

GATE FRAME MEMBERS SIZE AND WEIGHT

GATE FRAME	OUTSIDE DIMENSIONS INCHES	WEIGHT LBS./LIN. FT.
ROUND	1.66	2.27
*ROUND	1.66	1.84

* GRADE B HIGH STRENGTH STEEL

GATE POST SIZE AND WEIGHT

GATE LEAF WIDTH OF 6 FT. OR LESS	OUTSIDE DIMENSIONS INCHES	WEIGHT LBS./LIN. FT.
ROUND	2.875	5.79
*ROUND	2.875	4.64

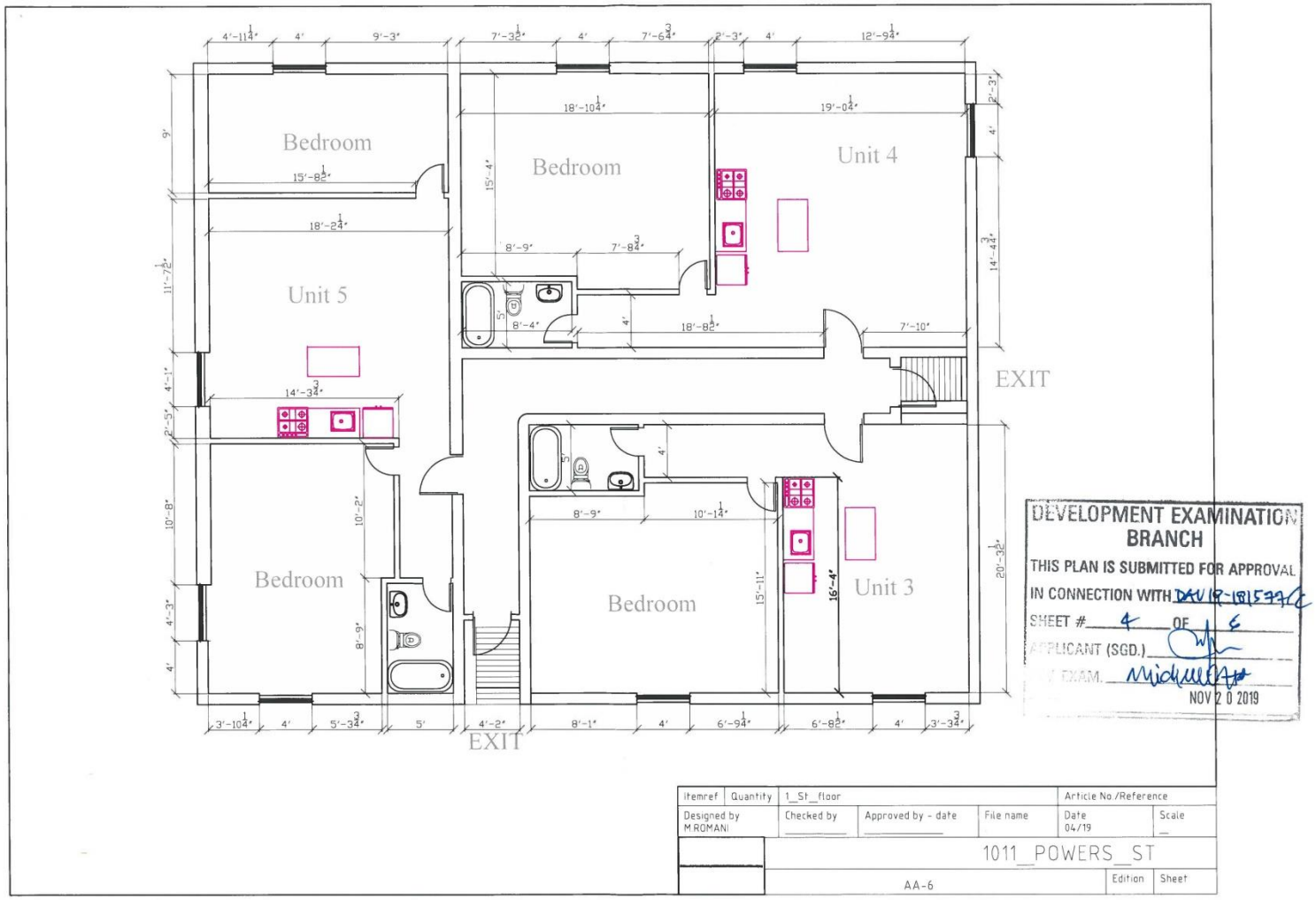
* GRADE B HIGH STRENGTH STEEL

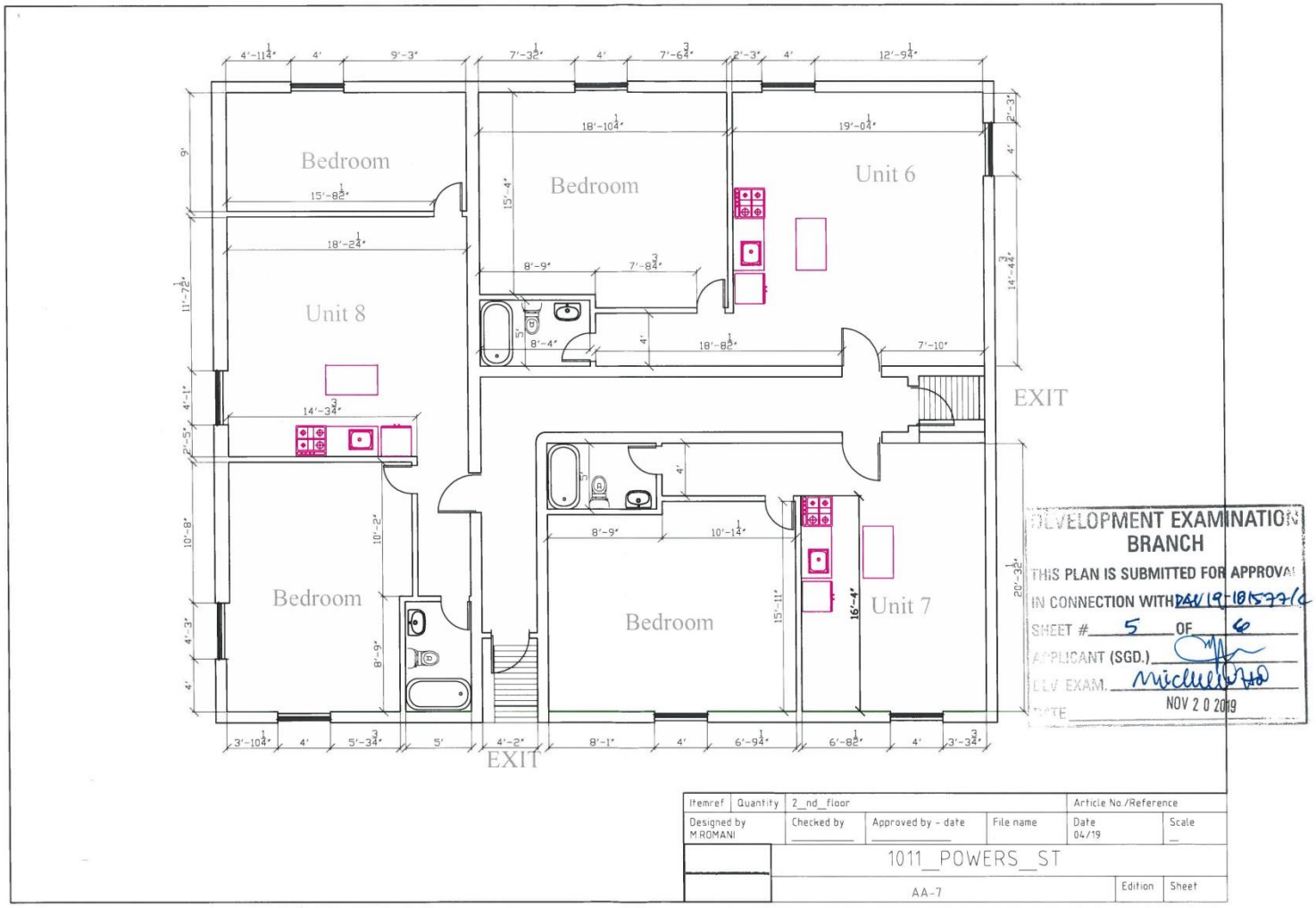
CONSTRUCTION NOTES

1. MATERIALS AND WORKMANSHIP NOT SHOWN ON THIS DRAWING SHALL CONFORM TO THE MANUFACTURER'S SPECIFICATIONS.
2. ALL POSTS SHALL BE INSTALLED VERTICALLY. WHERE POSTS ARE INSTALLED ON AN INCLINED SURFACE, THE ANGLE OF THE POST SHALL BE ADJUSTED SO THAT THE POST WILL BE VERTICAL.
3. THE FENCING SHALL BE #9 GAGE FENCE FABRIC, STANDARD 2-INCH CHAIN LINK DIAMOND MESH.

DEVELOPMENT EXAMINATION BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH DAV19-181577/C
SHEET # 3 OF 6
APPLICANT (SGD.)
DEV. EXAM.
NOV 2 0 2019

Itemref	Quantity	Bike Rack			Article No./Reference	
Designed by M.ROMANI		Checked by	Approved by - date	File name	Date 07/19	Scale
		1011 POWERS ST				
		AA-9			Edition	Sheet


Bedroom
Bedroom
Unit 4
Unit 5
Bedroom
Bedroom
Unit 3
EXIT
EXIT
DEVELOPMENT EXAMINATION BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH DAU 19-181599
SHEET # 4 OF 6
APPLICANT (SGD.)
EXAM.
NOV 2 0 2019
Itemref | Quantity | 1_St_floor | Article No./Reference
Designed by M ROMANI | Checked by | Approved by - date | File name | Date 04/19 | Scale
1011_POWERS_ST
AA-6 | Edition | Sheet


Bedroom
Bedroom
Unit 6
Unit 8
EXIT
Bedroom
Bedroom
Unit 7
EXIT
DEVELOPMENT EXAMINATION BRANCH
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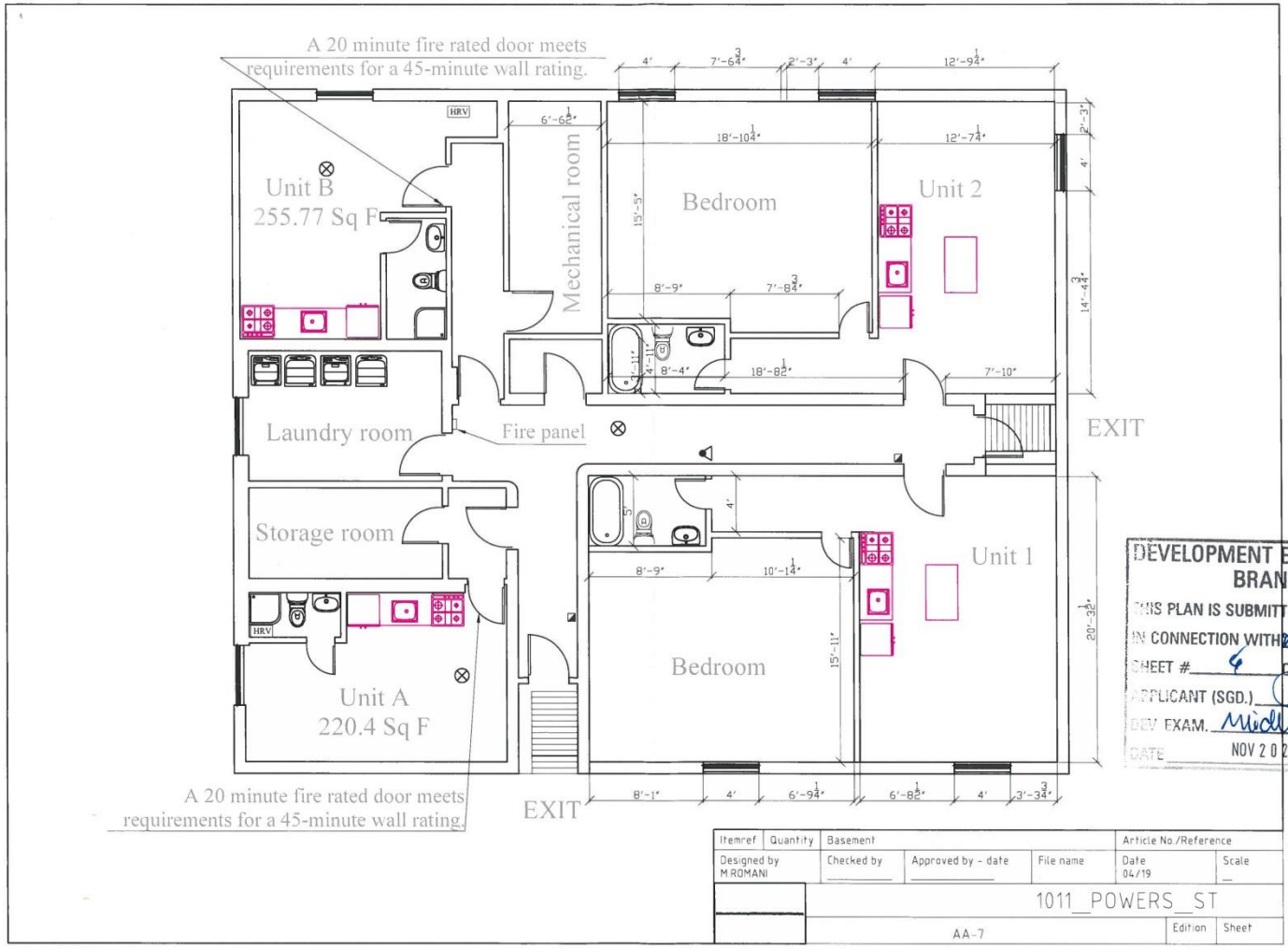
IN CONNECTION WITH DA/19-1015771
SHEET # 5 OF 6
APPLICANT (SGD.)
DEV EXAM.
DATE NOV 2 0 2019
Itemref | Quantity | 2_nd_floor | Article No./Reference
Designed by M.ROMANI | Checked by | Approved by - date | File name | Date 04/19 | Scale
1011_POWERS_ST
AA-7 | Edition | Sheet


A 20 minute fire rated door meets requirements for a 45-minute wall rating.
Unit B
255.77 Sq F
Mechanical room
Bedroom
Unit 2
Laundry room
Fire panel
EXIT
Storage room
Unit 1
Bedroom
Unit A
220.4 Sq F
A 20 minute fire rated door meets requirements for a 45-minute wall rating.
EXIT
DEVELOPMENT EXAMINATION BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH 19-181577
SHEET # 6 OF 6
APPLICANT (SGD.)
DEV EXAM.
DATE NOV 2 0 2019
Itemref | Quantity | Basement | Article No./Reference
Designed by M.ROMANI | Checked by | Approved by - date | File name | Date 04/19 | Scale
1011_POWERS_ST
AA-7 | Edition | Sheet