Minutes – Board of Adjustment – January 8, 2020

PUBLIC HEARINGS

Item No. 1 Conditional Use – 235 Andrews Street
(Mynarski Ward)
File DCU 213647/2019C [c/r DAV 213642/2019C]

BOARD OF ADJUSTMENT DECISION:

The Board of Adjustment concurred in the recommendation of the Winnipeg Public Service and approved a Conditional Use on "the land" to permit the establishment of a multi-family dwelling use, subject to the following conditions:

1. That a bicycle enclosure with space for at least 12 bikes shall be constructed and maintained thereafter on the property, to the satisfaction of the Director of Planning, Property and Development.

2. That a continuous light proof wood fence at least 6 feet in height shall be erected and maintained along the entire length of the north and east property line, to the satisfaction of the Director of Planning, Property and Development.

3. That the development shall be constructed in substantial conformance with the plans submitted attached hereto and identified as Sheets 1 of 7 for File No. DCU 19-213647\C, dated December 17, 2019, and Sheets 5 through 7 for File no. DCU 19-213647\C, dated December 3, 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. buildings
   B. accessory parking areas
   C. driveways
   D. garbage enclosures
   E. fencing
   F. freestanding signage
   G. landscaping

   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.

DECISION MAKING HISTORY:

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

Moved by Joel Remis,

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

Carried

Moved by Joel Remis,

That the receipt of public representations be concluded.

Carried

Moved by Joel Remis,

That in accordance with Section 254 and Subsection 247(3) of The City of Winnipeg Charter, the Conditional Use,

(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; and

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

Supporting Comments:

1. The Board of Adjustment agreed with the administrative comments contained in the report of the Urban Planning Division dated December 19, 2019.

Carried

DECISION MAKING HISTORY (continued):

Moved by Joel Remis,

That the recommendation of the Winnipeg Public Service be concurred in, and the Conditional Use be approved.

Carried

Moved by Joel Remis,

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

Carried

THE CITY OF WINNIPEG
CONDITIONAL USE ORDER
BOARD OF ADJUSTMENT

DCU 213647/2019C [c/r DAV 213642/2019C]

Before:	Board of Adjustment Bill Sawka, Chairperson Bill Evans Joel Remis
Hearing:	January 8, 2020 Council Building, 510 Main Street
Applicant:	Alla Bernshtein
Premises Affected:	235 Andrews Street
Legal Description:	LOT 35/36 PLAN 142 39W ST J, hereinafter called “the land”
Property Zoned:	"R2" Residential Two-Family
Nature of Application:	For a Conditional Use under the Winnipeg Zoning By-Law No. 200/2006 to permit the establishment of a multi-family dwelling use.

It is the opinion of the Board of Adjustment that subject to conditions listed below, if any, this Conditional Use meets the statutory criteria as outlined in Section 254 and Subsection 247(3) of The City of Winnipeg Charter in that it:

(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; and

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

Supporting Comments:

1. The Board of Adjustment agreed with the administrative comments contained in the report of the Urban Planning Division dated December 19, 2019.

ORDER:

The Board of Adjustment orders that a Conditional Use is approved on "the land" to permit the establishment of a multi-family dwelling use, subject to the following conditions, which the Board of Adjustment considers necessary to ensure compliance with criteria (a), (b) and (d) as outlined in Section 254 and Subsection 247(3) of The City of Winnipeg Charter, namely:

1. That a bicycle enclosure with space for at least 12 bikes shall be constructed and maintained thereafter on the property, to the satisfaction of the Director of Planning, Property and Development.

2. That a continuous light proof wood fence at least 6 feet in height shall be erected and maintained along the entire length of the north and east property line, to the satisfaction of the Director of Planning, Property and Development.

3. That the development shall be constructed in substantial conformance with the plans submitted attached hereto and identified as Sheets 1 of 7 for File No. DCU 19-213647\C, dated December 17, 2019, and Sheets 5 through 7 for File no. DCU 19-213647\C, dated December 3, 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. buildings
   B. accessory parking areas
   C. driveways
   D. garbage enclosures
   E. fencing
   F. freestanding signage
   G. landscaping

   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.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

DATE OF ORDER: January 14, 2020

CERTIFIED BY:

K. McMillan
Senior Committee Clerk

HOW TO APPEAL

If you object to this Order, you are entitled to file a notice of appeal. Your notice of appeal must:

(a) be in writing;

(b) contain your name, mailing address and phone number;

(c) be addressed as set out below;

(d) be received at that office not later than 4:30 p.m. on January 31, 2020;

[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(e) refer to Conditional Use Order No. DCU 213647/2019C; and

(f) provide the reason(s) for the appeal

The City Clerk may not schedule an appeal hearing until your notice of appeal meets the above requirements.

Address:	City Clerk, City of Winnipeg c/o Appeal Committee Susan A. Thompson Building Main Floor, 510 Main Street Winnipeg, Manitoba, R3B 1B9
Fax:	204-947-3452
Email:	CLK-Appeals@winnipeg.ca

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

Alla Bernshtein

In Opposition:

Nil

For Information:

Roxane Dorvault
Darrell Warren

For the City:

S. Jerez, Planner, Planning, Property and Development Department
R. Hayer, Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DCU 213647/2019C

1. Application dated December 3, 2019
2. Notification of Public Hearing dated December 18, 2019
3. Manitoba Status of Title 2146054/1
4. Letter of authorization dated September 30, 2019 from Manuel Ruiz to Alla Bernshtein
5. Surveyor's Building Location Certificate and sketch dated July 15, 2019
6. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
7. Plans, Sheets 1 to 7 inclusive, for File DCU 213647/2019C dated December 17, 2019
8. Report from the Urban Planning Division dated December 19, 2019
9. Inspection Report

Exhibit "8" referred to in File DCU 213647/2019C

ADMINISTRATIVE REPORT

Title: DCU 19-213647\C – 235 Andrews Street

Issue: For consideration at the public hearing for a conditional use associated with the conversion of a place of worship to a multi-family dwelling use.

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** of the application for a conditional use under *Zoning By-Law No. 200/2006* to permit the establishment of a multi-family dwelling use. Subject to the following condition(s):

1) That, a bicycle enclosure with space for at least 12 bikes shall be constructed and maintained thereafter on the property, to the satisfaction of the Director of Planning, Property and Development.

2) That, a continuous light proof wood fence at least 6 feet in height shall be erected and maintained along the entire length of the north and east property line, to the satisfaction of the Director of Planning, Property and Development.

3) That, the development shall be constructed in substantial conformance with the plans submitted attached hereto and identified as Sheets 1 of 7 for File No. DCU 19-213647\C, dated December 17, 2019, and Sheets 5 through 7 for File no. DCU 19-213647\C, dated December 3, 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. buildings;

   ii. accessory parking areas;

   iii. driveways;

iv. garbage enclosures;

v. fencing;

vi. freestanding signage and

vii. landscaping

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 convert a building, which is currently on the City's list of Commemorative Historical Resources, to a multi-family dwelling with eight units. Multi-family dwellings are a conditional use in the "R2" Residential Two-Family district.
- Conditional Use 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:	**DCU 19-213647/C**
RELATED FILES:	**DAV 19-213642/C**
COMMUNITY:	Lord Selkirk - West Kildonan Committee
NEIGHBOURHOOD #:	3.302 (William Whyte)
SUBJECT:	For a Conditional Use under Zoning By-Law No. 200/2006 to permit the establishment of a multi-family dwelling use.
LOCATION:	235 Andrews ST
LEGAL DESCRIPTION:	LOT 35/36 PLAN 142 39W ST J
APPLICANT:	Alla Bernshtein 19 Amethyst PL Winnipeg, Manitoba R3Y 1C4
OWNER:	Manuel Ruiz 235 Andrews ST Winnipeg, Manitoba R2W 4T2

HISTORY

- The subject building was constructed as a brick church in 1907, on a design by local architect G. G. Teeter.
- The structure was the site of the Salem Reformed Church until 1986, when it became a Filipino United Community Church.
- In 2001, the building was placed on the City of Winnipeg Commemorative List of Historical Resources.
- City records show the property is still classified as a place of worship use.

DISCUSSION

CRITERIA FOR APPROVAL

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

(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;

(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 Andrews Street and Burrows Avenue, in the William Whyte neighbourhood of the Mynarski ward.**
- **The site is designated "Areas of Stability – Mature Community" policy area under the *Complete Communities Direction Strategy* of *OurWinnipeg*.**
- **The site is zoned "R2" Residential Two-Family district under the *City of Winnipeg Zoning By-law*.**
- **The subject site is 6,536 sq. ft. in lot area, with approximately 100 ft. of frontage along Andrews Street and 66 ft. along Burrows Avenue.**
- **The site takes motor vehicle access from an existing private approach on Andrews Street.**
- **Currently on the site is a brick building constructed in 1907 as a Church (Salem** Reformed Church)**.**
- **The subject building is on the Commemorative list of Historical Resources, and accordingly there are no restrictions on alteration of the building.**



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

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Single-family dwelling zoned "R2" Residential Two-Family district.

South: Burrows Avenue; then a mix of single- and multi- family dwellings zoned "R2" Residential Two-Family district.

East: A mix of single- and two- family dwellings zoned "R2" Residential Two-Family district.

West: Alfred Avenue; then a retail store (deli shop) zoned "R2" Residential Two-Family district; then, single-family dwellings zoned "R2" Residential Two-Family district.

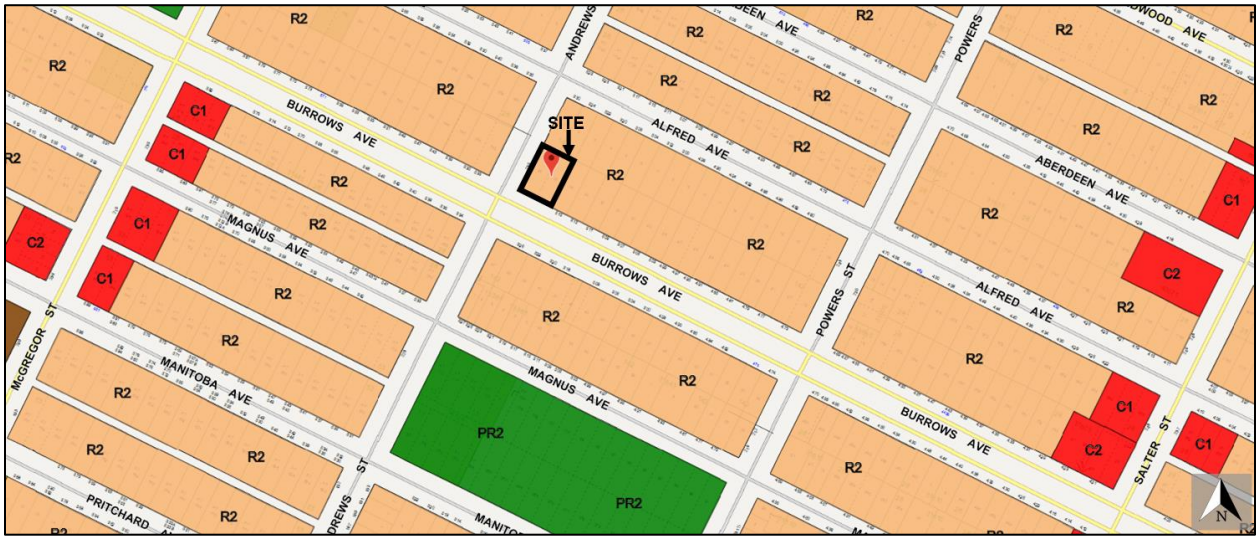


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development involves conversion of the existing building to a residential multi-family dwelling use. Plans submitted with the application (See Figure 3) show the following works would also be constructed:

- Along the north side of the property, an accessory parking area with two parallel parking spaces would be provided. Parking spaces would be 10 ft. wide by 23 ft. deep. Access would be from the existing private approach on Andrews Street. The drive aisle would be 9.5 ft. wide.
- A bicycle enclosure would be constructed partially in the front yard. The enclosure would be 7.5 ft wide by 24 ft. deep and 10 ft. in height. The enclosure would be sheltered and provide space for 12 bicycles. Roughly 8 ft. of the enclosure would be in the front yard, with the remaining 16 ft. located in the side yard.
- Walkways constructed of asphalt pavement to accommodate pedestrian access and circulation, including connections from building entrances to the public sidewalk, garbage enclosure areas, and bike enclosure areas.

Generally, the appearance of the structure would not change, excepting any modifications that may be necessary to ensure compliance with building code requirements. Units would be self-contained, including one bedroom each, with kitchen, living, and dining areas.

The applicant has also applied for variances to accommodate aspects of the proposed development under related File No. DAV 19-213642\C. A report on the matter has been submitted to the Board of Adjustment for consideration.

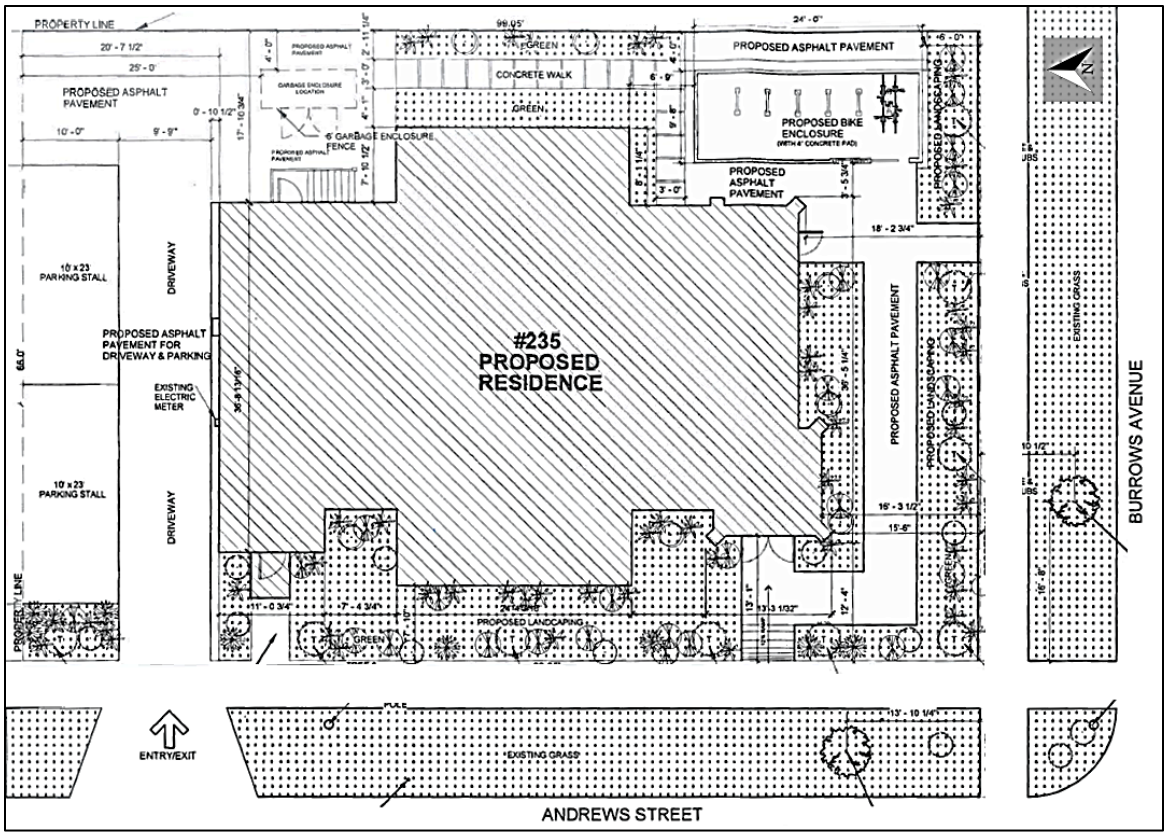


Figure 3: Site plan submitted with application.

Collaboration:

The applicant contacted the Urban Planning Division in April, 2019, to inquire about obtaining land use approvals necessary convert the building on the subject site into a residential use. The Public Service advised the applicant that, adaptive reuse of the existing building would be generally supported and encouraged.

The subject building, as shown on Figure 3, could be considered a landmark building within the neighbourhood, and as such the Public Service has worked closely with the applicant to ensure that the adaptive reuse of the structure can be done in a manner that enhances the neighbourhood. It is worth noting that the site is significantly constrained due to the historic structure occupying most of the lot, and also due to the lot not having access to a public lane.



Figure 4: Subject building (source: Manitoba Historical Society).

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.*
>
> *Build upon the local heritage of mature neighbourhoods, including the sustainable reuse of existing building stock and other historic elements.*

As noted, the proposed development involves conversation of a historical building. As such, several policies under the “Urban Design” and “Heritage Conservation” policy areas of *Complete Communities* should be noted:

> *Recognize, use, conserve and enhance heritage resources, including districts, buildings, landscapes and cultural heritage.*
>
> *Conserve, protect and celebrate the significant heritage resources that illustrate the broad range of Winnipeg’s heritage values.*
>
> *Recognize the importance of a broad range of tangible and intangible heritage resources throughout the city that illustrate Winnipeg’s unique sense of place and community pride.*

City of Winnipeg Zoning By-law

The subject property is zoned Residential two-family (R2) district. The “R2” district is intended to accommodate the development of single- and two-family units and where appropriate limited multi-family units in lower-density neighbourhoods.

Multi-family development is allowed as a Conditional Use to a density of 800 square feet per dwelling unit. The proposed development, at 817 square feet per unit, would be within the maximum density allowed in the “R2” zoning district.

Conditional Use Review

The proposed development would add to the variety of housing types in the neighbourhood. Subject to conditions of approval, the proposed development would be compatible with and complimentary to surrounding properties in terms of building massing, scale and built form. The proposed development also helps preserve a heritage structure, which in itself is an integral component of the neighbourhood character.

- Thus, the proposal would be generally consistent with the *Complete Communities Direction Strategy.*

The subject block is also mixed in land use. For example, across the street to the south, at 518 Burrows Avenue, is a five unit multi-family dwelling. To the west is a commercial deli shop, European Meats, which has been in the area since the 1950s.

The property is also located on a corner and in a very walkable neighbourhood with sidewalks . Commercial amenities and transit are available nearby on Salter Street (two blocks east) and McGregor Street (one blocks east). Frequent transit service is available on both Salter and McGregor Streets. William Whyte School is located one block south of the site.

- The above noted characteristics suggest that the site is an appropriate location for multi-family development and the conditional use would be compatible with the area.

Conditions of approval are included to ensure future development does not create an adverse impact on adjacent properties. To this end, the Administration recommends light proof wooden fencing to contain the parking areas along property limits abutting residential dwellings, and that bike parking be provided and maintained on the property to support multi-modal transportation options for future residents.

It is also recommended that the development, including the bike enclosure, proceed in a manner substantial in conformance with the plans submitted alongside the subject application. If plans of development change, then Plan Approval by the Director of Planning, Property and Development is recommended.

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.

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 represents a low to moderate increase in density and adds to the housing types in the community for new and existing residents, while conserving a heritage asset in the community.*

(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****, subject to conditions of approval, the conditional use would not create an adverse effect on adjoining properties and adjacent areas.*

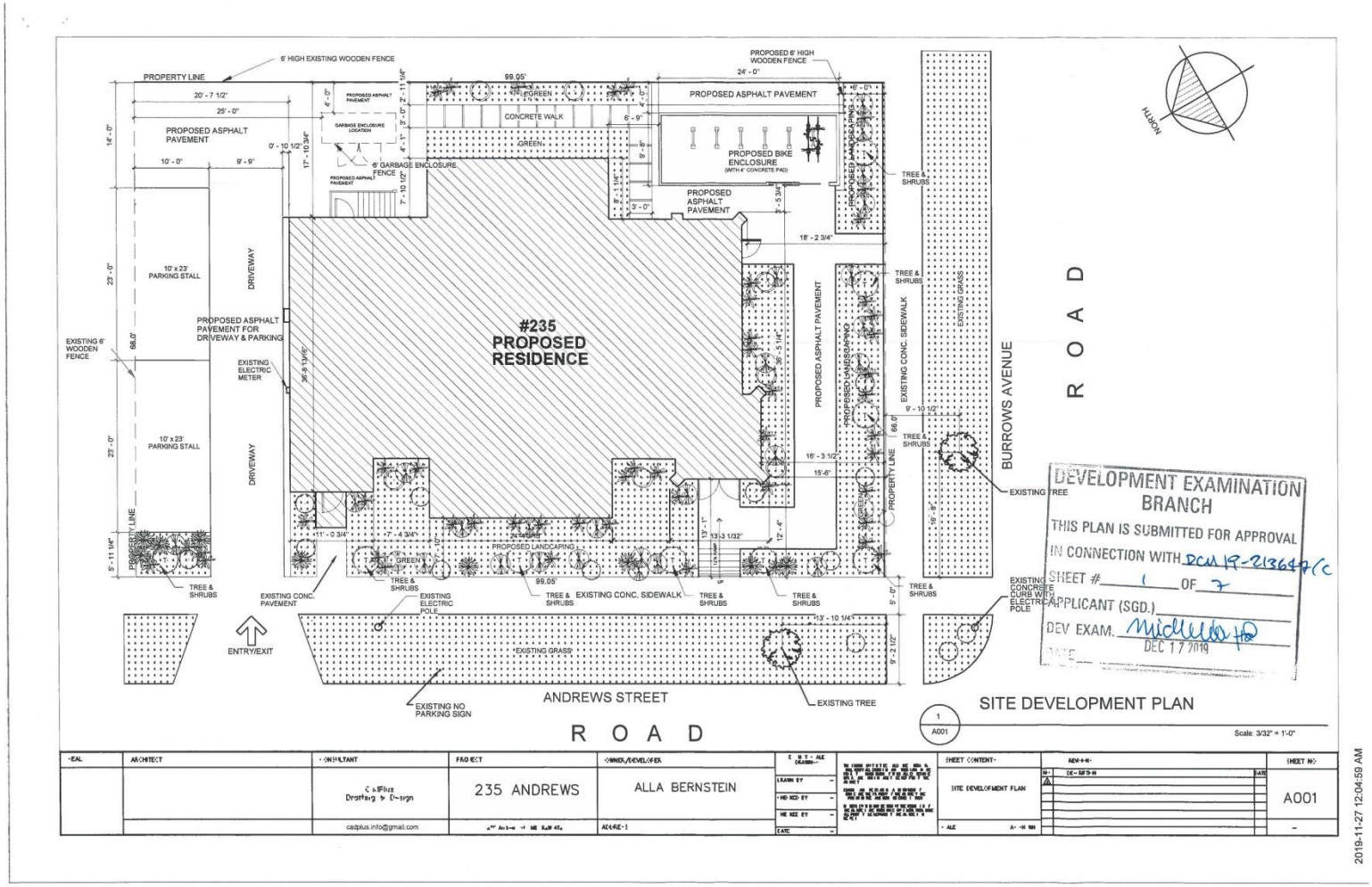
(d) is compatible with the area in which the property to be affected is situated.

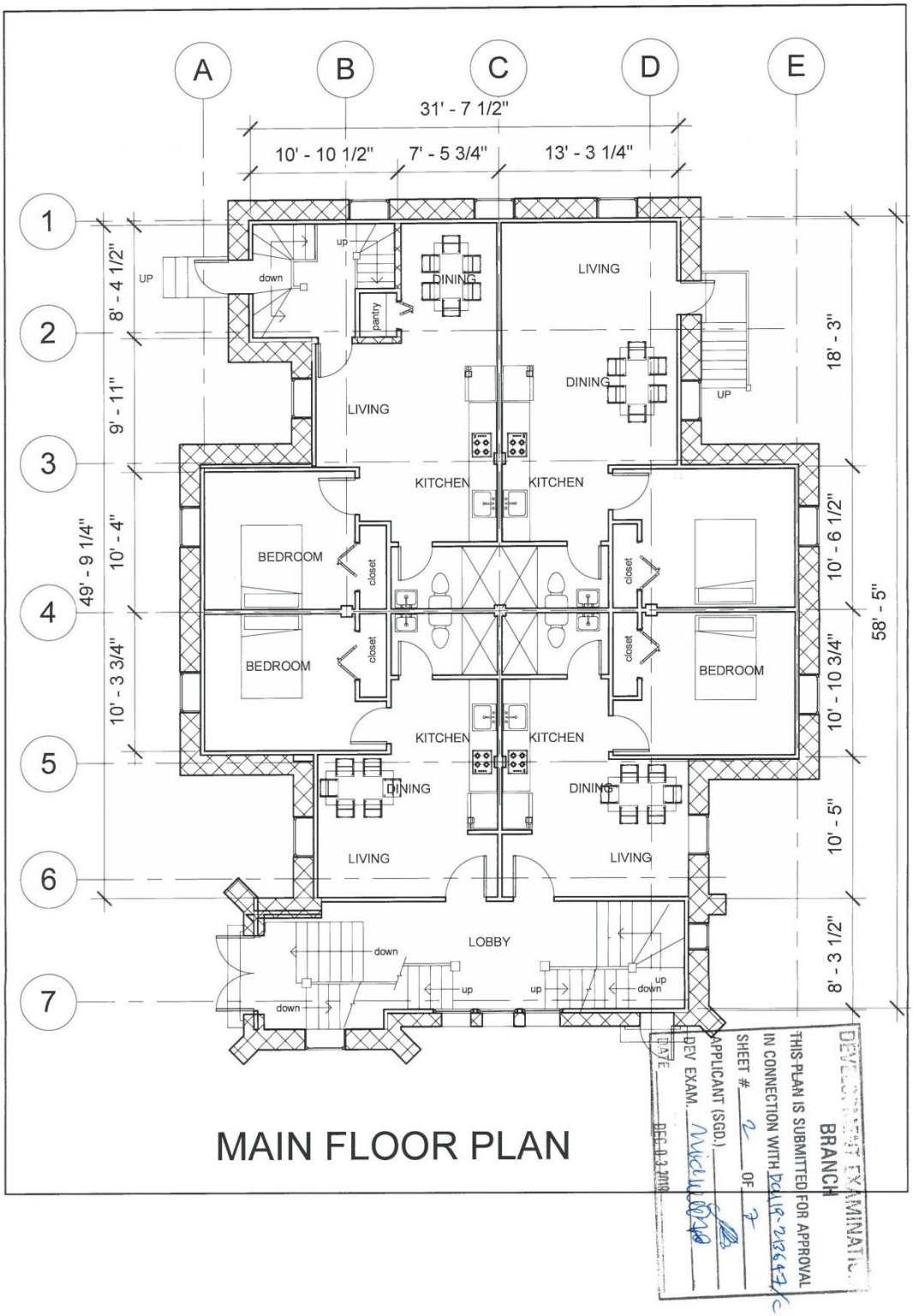
> ***In that****, the proposed development would be located on a block that has an existing mix of building typologies and densities, and the development would enhance an existing landmark building, thus the development would not be incompatible with the area.*

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Urban Planning
Prepared by:	R. Hayer, MCP
Date:	Thursday, December 19, 2019
File No.	DCU 19-213647\C

Exhibit “7” referred to in File DCU 213647/2019C

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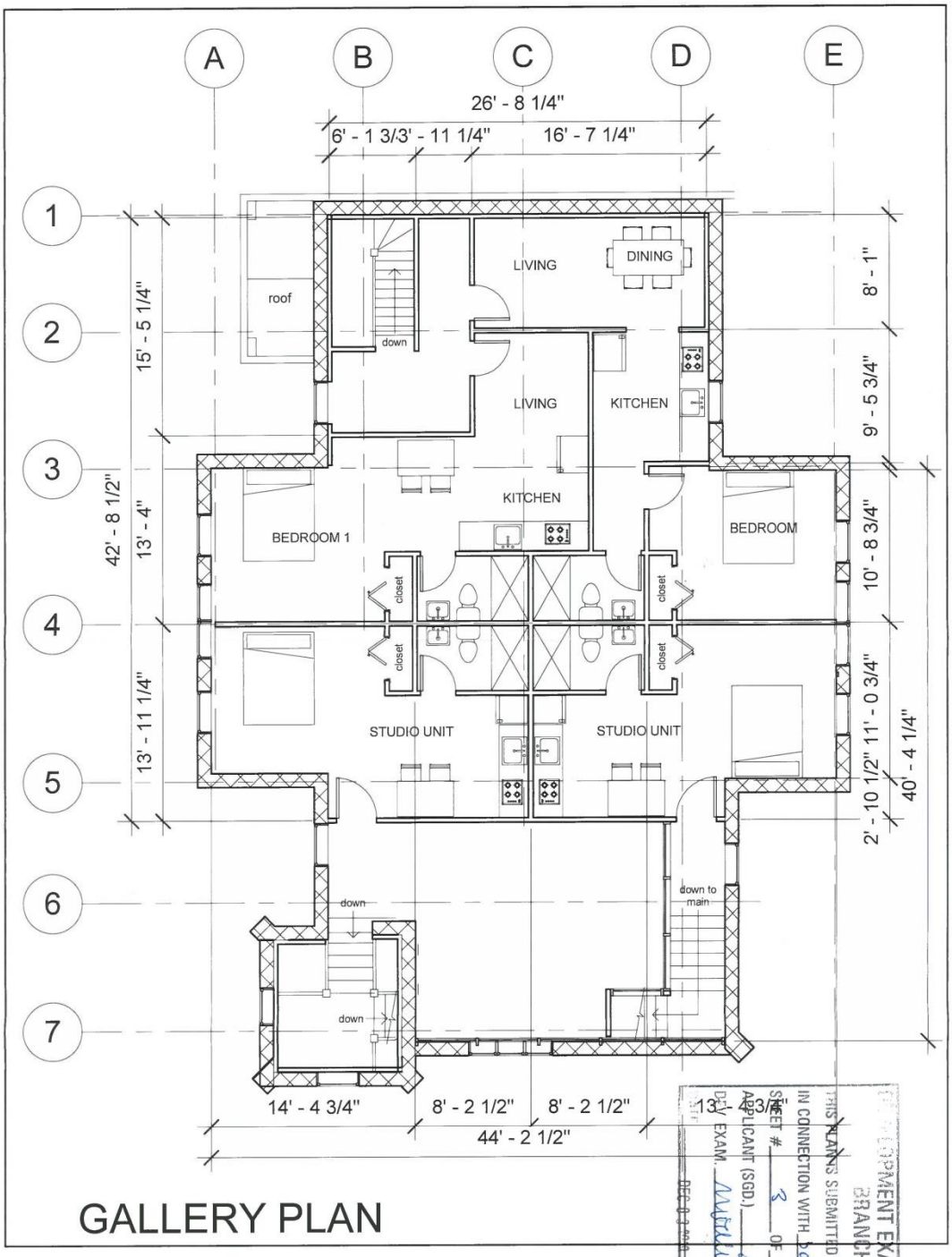
18' - 3"
10' - 6 1/2"
10' - 10 3/4"
10' - 5"
8' - 3 1/2"
58' - 5"
UP
down
up
pantry
DINING
LIVING
KITCHEN
BEDROOM
closet
LOBBY
MAIN FLOOR PLAN
DEVELOPMENT EXAMINATION
BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH
SHEET # 2 OF 7
APPLICANT (SGD.)
DEV EXAM.
DATE DEC 0 3 2019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8' - 1"
9' - 5 3/4"
10' - 8 3/4"
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2' - 10 1/2"
40' - 4 1/4"
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LIVING
DINING
LIVING
KITCHEN
KITCHEN
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BEDROOM
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closet
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STUDIO UNIT
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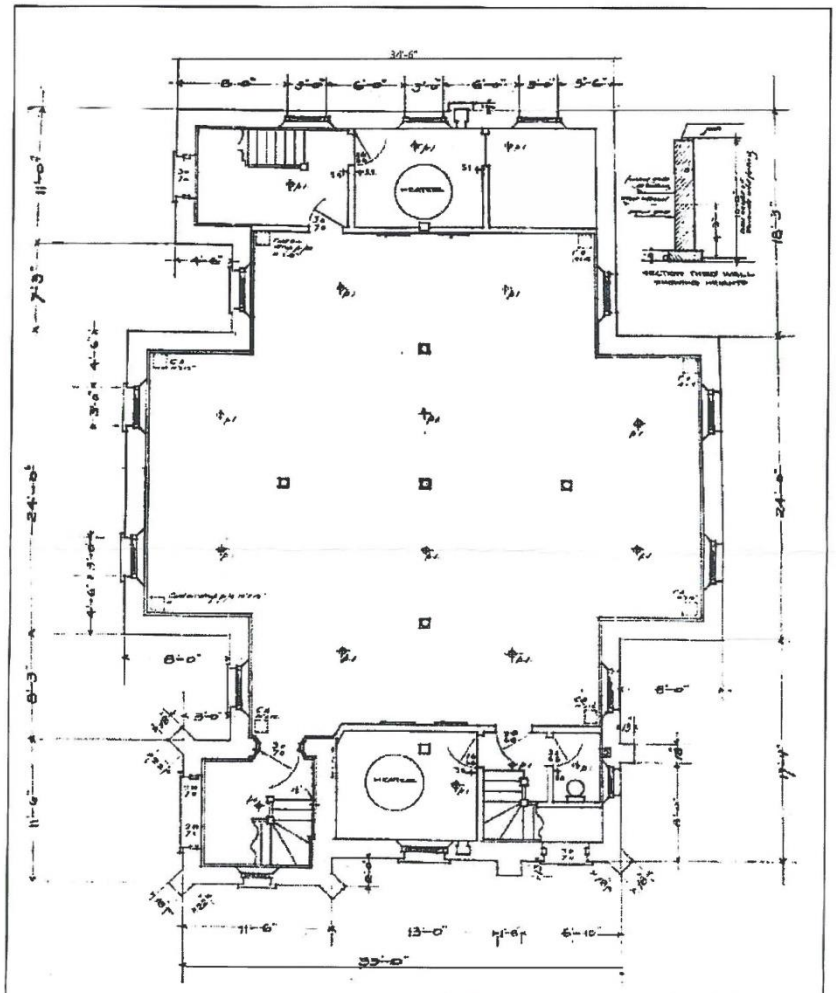
8' - 2 1/2"
8' - 2 1/2"
13' - 4 3/4"
44' - 2 1/2"
GALLERY PLAN
DEVELOPMENT EXAMINATION
BRANCH
THIS PLANS SUBMITTED FOR APPROV
IN CONNECTION WITH bur-218643/C
SHEET # 3 OF 7
APPLICANT (SGD.)
DEV. EXAM.
DEC 0 3 2018



SALEM REFORMED CHURCH (235 ANDREWS STREET)

BASEMENT FLOOR PLAN

Scale 1/8" = 1'-0"

DEVELOPMENT EXAMINATION BRANCH

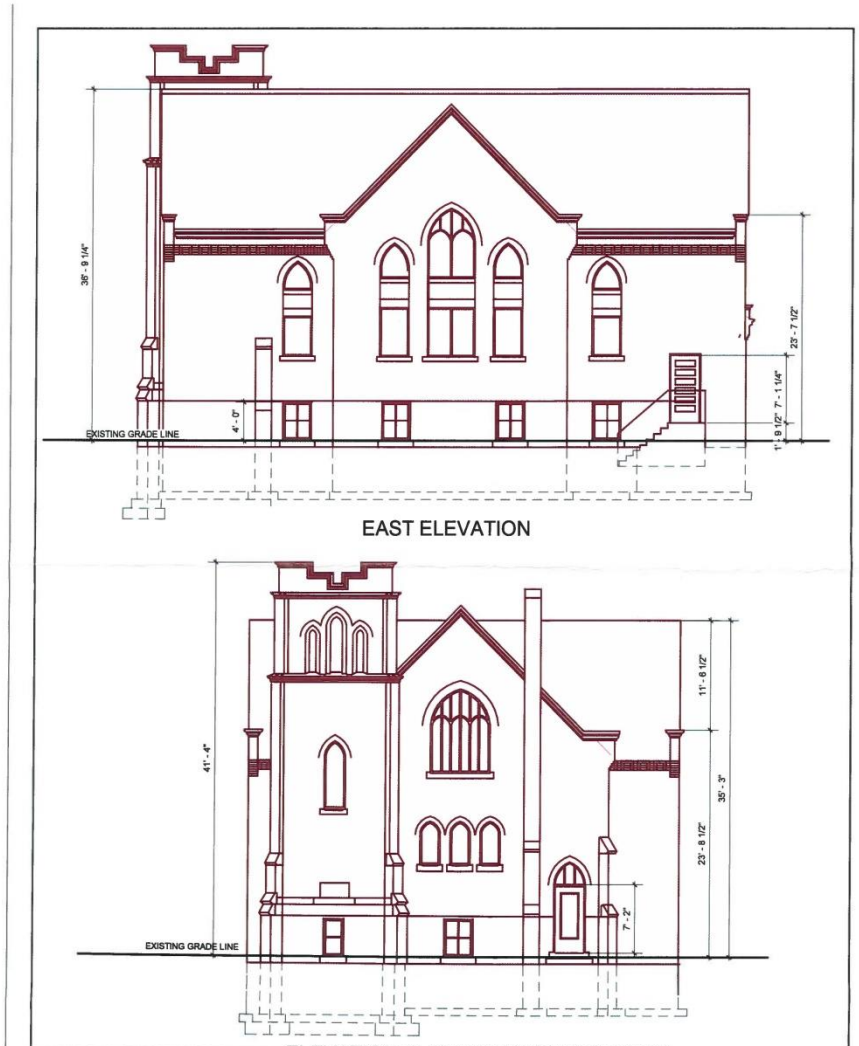
THIS PLAN IS SUBMITTED FOR APPROVAL IN CONNECTION WITH Da19-213647/C

SHEET # 4 OF 7

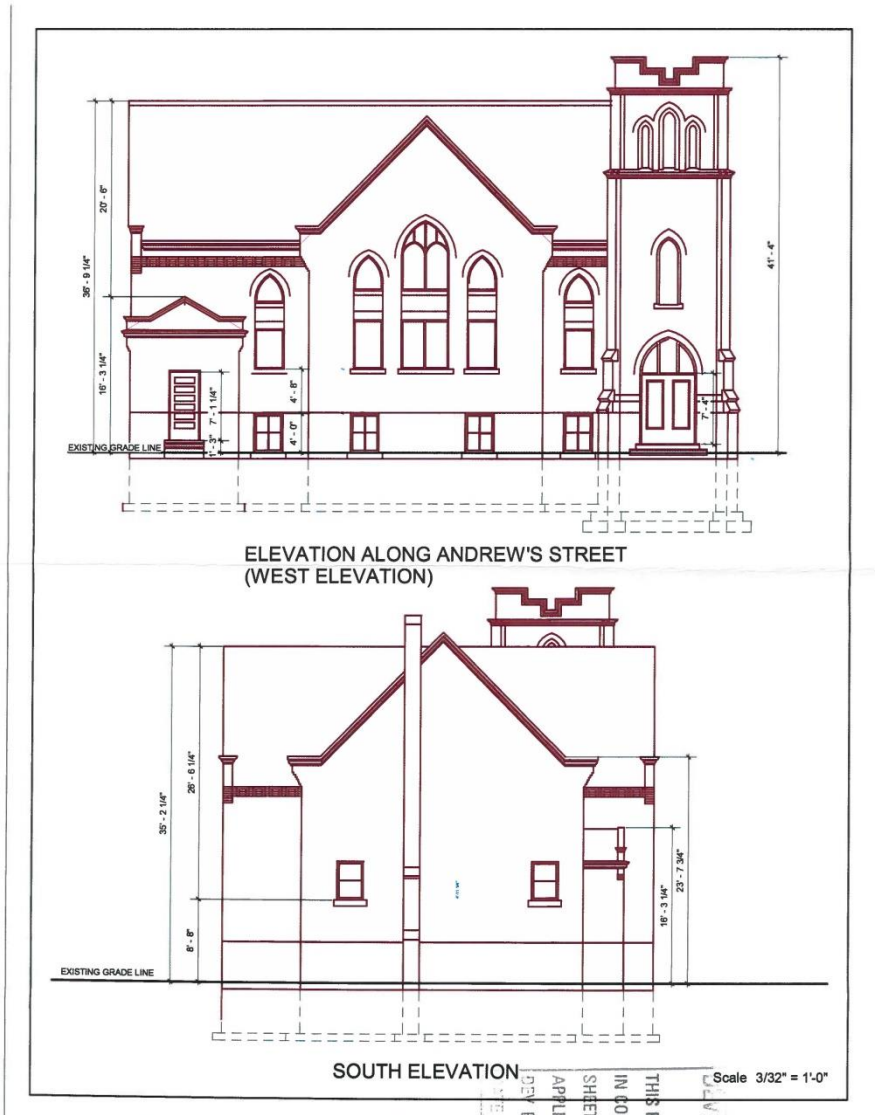
APPLICANT (SGD.) [signature]

DEV EXAM. [signature]

DATE DEC 0 3 2019

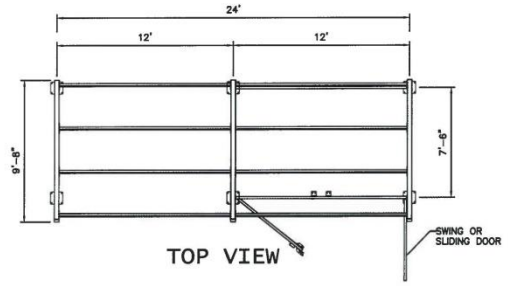


DEVELOPMENT EXAMINATION BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL IN CONNECTION WITH DW19-213647/C
SHEET # 5 OF 7
APPLICANT (SGD.)
DEV. EXAM. [signature]
DEC 03 2019

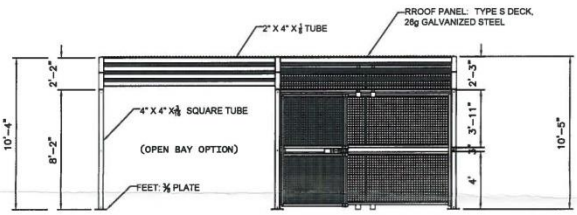


DEVELOPMENT EXAMINATION
BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH DWG-23647/C
SHEET # 6 OF 7
APPLICANT (SGD.)
DEV EXAM.
DEC 0 3 2019

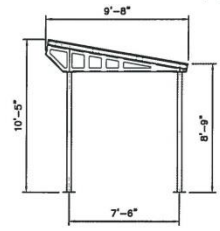
235 ANDREWS PROPSED BICYCLE SHELTER/ENCLOSURE
NOT TO SCALE



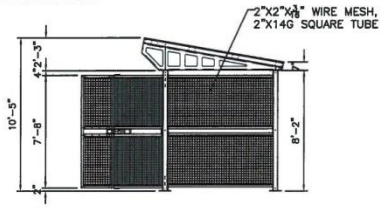
TOP VIEW



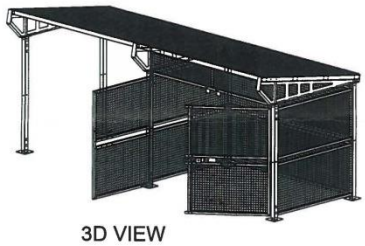
FRONT ELEVATION



SECTION



SIDE ELEVATION



3D VIEW

