Minutes – Board of Adjustment – January 8, 2020

PUBLIC HEARINGS

Item No. 17 Variance – 1056 Theo. Nuytten Street
(St. Boniface Ward)
File DAV 213055/2019C

BOARD OF ADJUSTMENT DECISION:

The Board of Adjustment concurred in the recommendation of the Winnipeg Public Service and approved a Variance on "the land" for the establishment of two residential zoning lots to permit on lot 12:

1. a lot width of 24.93 feet (7.60 metres)

2. a lot area of 2532.8 square feet (235.3 square metres)

Subject to the following conditions:

1. That the height of principal buildings shall be limited to a maximum of 30 feet.

2. That no front driveway approach shall be permitted.

3. That there shall be no new garages constructed attached to any principal dwelling on the subject property.

4. That any principal dwelling located on the subject properties shall provide an entrance on the building elevation facing the front yard.

5. That alcoves, bay windows, vestibules and similar building elements creating interior floor area shall be at least two feet from any side lot line, measured from the exterior finish of said building elements.

6. That prior to the issuance of building permits on proposed Lot 12 the existing dwelling on proposed Lots 10 & 11 of LOT 10/12 BLOCK 2 PLAN 1886 RCMP, must be upgraded along the north wall in order to comply with the Winnipeg Building By-law and Manitoba Building Code for spatial separation, to be determined by and thereafter maintained to the satisfaction of the Director of Planning Property and Development.

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 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:

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 Variance be approved.

Carried

Moved by Joel Remis,

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

Carried

THE CITY OF WINNIPEG
VARIANCE ORDER
BOARD OF ADJUSTMENT

DAV 213055/2019C

Before:	Board of Adjustment Bill Sawka, Chairperson Bill Evans Joel Remis
Hearing:	January 8, 2020 Council Building, 510 Main Street
Applicant:	4638817 Manitoba Ltd.
Premises Affected:	1056 Theo. Nuytten Street
Legal Description:	LOT 10/12 BLOCK 2 PLAN 1886 RCMP, hereinafter called "the land"
Property Zoned:	"R2" Residential Two-Family
Nature of Application:	To vary the "R2" District Dimensional standards of the Winnipeg Zoning By-Law No. 200/2006 for the establishment of two residential zoning lots to permit on lot 12; 1. a lot width of 24.93 feet (7.60 metres) instead of 25 feet (7.62 metres); 2. a lot area of 2,532.8 square feet (235.3 square metres) instead of 5,000 square feet (464.5 square metres).

It is the opinion of the Board of Adjustment that subject to conditions listed below, if any, this Variance meets the statutory criteria as outlined in 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;

(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:

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 the provisions of the "R2" District Dimensional standards of the Winnipeg Zoning By-Law No. 200/2006 are varied on “the land” for the establishment of two residential zoning lots to permit on lot 12:

1. a lot width of 24.93 feet (7.60 metres)

2. a lot area of 2532.8 square feet (235.3 square metres)

subject to the following condition(s), which the Board of Adjustment considers necessary to ensure compliance with criteria (a) to (d) as outlined in Subsection 247(3) of The City of Winnipeg Charter, namely:

1. That the height of principal buildings shall be limited to a maximum of 30 feet.

2. That no front driveway approach shall be permitted.

3. That there shall be no new garages constructed attached to any principal dwelling on the subject property.

4. That any principal dwelling located on the subject properties shall provide an entrance on the building elevation facing the front yard.

5. That alcoves, bay windows, vestibules and similar building elements creating interior floor area shall be at least two feet from any side lot line, measured from the exterior finish of said building elements.

6. That prior to the issuance of building permits on proposed Lot 12 the existing dwelling on proposed Lots 10 & 11 of LOT 10/12 BLOCK 2 PLAN 1886 RCMP, must be upgraded along the north wall in order to comply with the Winnipeg Building By-law and Manitoba Building Code for spatial separation, to be determined by and thereafter maintained to the satisfaction of the Director of Planning Property and Development.

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 Variance Order No. DAV 213055/2019C; 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:

Richard Boon

In Opposition:

Nil

For Information:

Nil

For the City:

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

EXHIBITS FILED FOR DAV 213055/2019C

1. Application dated December 4, 2019
2. Notification of Public Hearing dated December 12, 2019
3. Manitoba Status of Titles 3000350/1 and 3000351/1
4. Letter of authorization dated November 26, 2019, from 4638817 Manitoba Ltd. (Richard Boon, President) to 4638817 Manitoba Ltd.
5. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
6. Plans, Sheets 1 and 2, for File DAV 213055/2019C dated November 26, 2019
7. Petition in support of the application purporting to contain the signatures of four area residents, submitted by the applicant
8. Report from the Urban Planning Division dated December 19, 2019
9. Inspection Report

Exhibit “8” referred to in File DAV 213055/2019C

ADMINISTRATIVE REPORT

Title: DAV 19-213055\C – 1056 Theo. Nuytten ST

Issue: For consideration at the public hearing for variances associated with the establishment of two residential lots.

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

AUTHORIZATION

Author	Department Head	CFO	CAO
Simi Jerez	n/a	n/a	

RECOMMENDATIONS

The Urban Planning Division recommends approval of the application to vary the "R2" dimensional standards of Zoning By-Law No. 200/2006 for the establishment of two residential zoning lots to permit on lot 12;

1) a lot width of 24.93 feet (7.60 metres) instead of 25 feet (7.62 metres);
2) a lot area of 2532.8 square feet (235.3 square metres) instead of 5000 square feet (464.5 square metres).

Subject to the following conditions:

1) That, the height of principal buildings shall be limited to a maximum of 30 feet.
2) That, no front driveway approach shall be permitted.
3) That, there shall be no new garages constructed attached to any principal dwelling on the subject property.
4) That, any principal dwelling located on the subject properties shall provide an entrance on the building elevation facing the front yard.
5) That alcoves, bay windows, vestibules and similar building elements creating interior floor area shall be at least two feet from any side lot line, measured from the exterior finish of said building elements.
6) That prior to the issuance of building permits on proposed Lot 12 the existing dwelling on proposed Lots 10 & 11 of LOT 10/12 BLOCK 2 PLAN 1886 RCMP, must be upgraded along the north wall in order to comply with the Winnipeg Building By-law and Manitoba Building

Code for spatial separation, to be determined by and thereafter maintained to the satisfaction of the Director of Planning Property and Development.

REASON FOR THE REPORT

- This report provides information and makes recommendations regarding the subject application's compliance with The City of Winnipeg Charter.
- 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,

FILE/APPLICANT DETAILS

FILE:	DAV 19-213055\C
RELATED FILES:	
COMMUNITY:	Riel Committee
NEIGHBOURHOOD #:	5.509 - Holden neighbourhood
SUBJECT:	To vary the "R2" dimensional standards of Zoning By-Law No. 200/2006 for the establishment of two residential zoning lots to permit on lot 12; 1) a lot width of 24.93 feet (7.60 metres) instead of 25 feet (7.62 metres); 2) a lot area of 2532.8 square feet (235.3 square metres) instead of 5000 square feet (464.5 square metres).
LOCATION:	1056 Theo. Nuytten ST
LEGAL DESCRIPTION:	LOT 10/12 BLOCK 2 PLAN 1886 RCMP
APPLICANT:	4638817 MANITOBA LTD. 3 MERLON PL Winnipeg , Manitoba R2P 1H5
OWNER:	4638817 MANITOBA LTD. 3 MERLON PL Winnipeg , Manitoba R2P 1H5

HISTORY

N/A

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 property is located on the south side of Theo. Nuytten Street between Holden Street and Lagimodiere Boulevard, in the Holden neighbourhood of the St. Boniface ward.
- The site is 7,605 square feet in area and contains a one storey 750 square foot single-family home built in 1955.
- The site is in the Areas of Stability – Mature Communities policy area under the *Complete Communities Direction Strategy*. The property is zoned “R2” Residential Two-family.



Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2014)*

North: Theo Nuytten Street; then dwelling uses zoned “R2” Residential Two-Family.

South: Rear lane; then dwelling uses zoned “R2” Residential Two-Family.

East: Dwelling uses zoned “R1-M” Residential Single-Family Medium.

West: Dwelling uses zoned “R1-M” Residential Single-Family Medium.

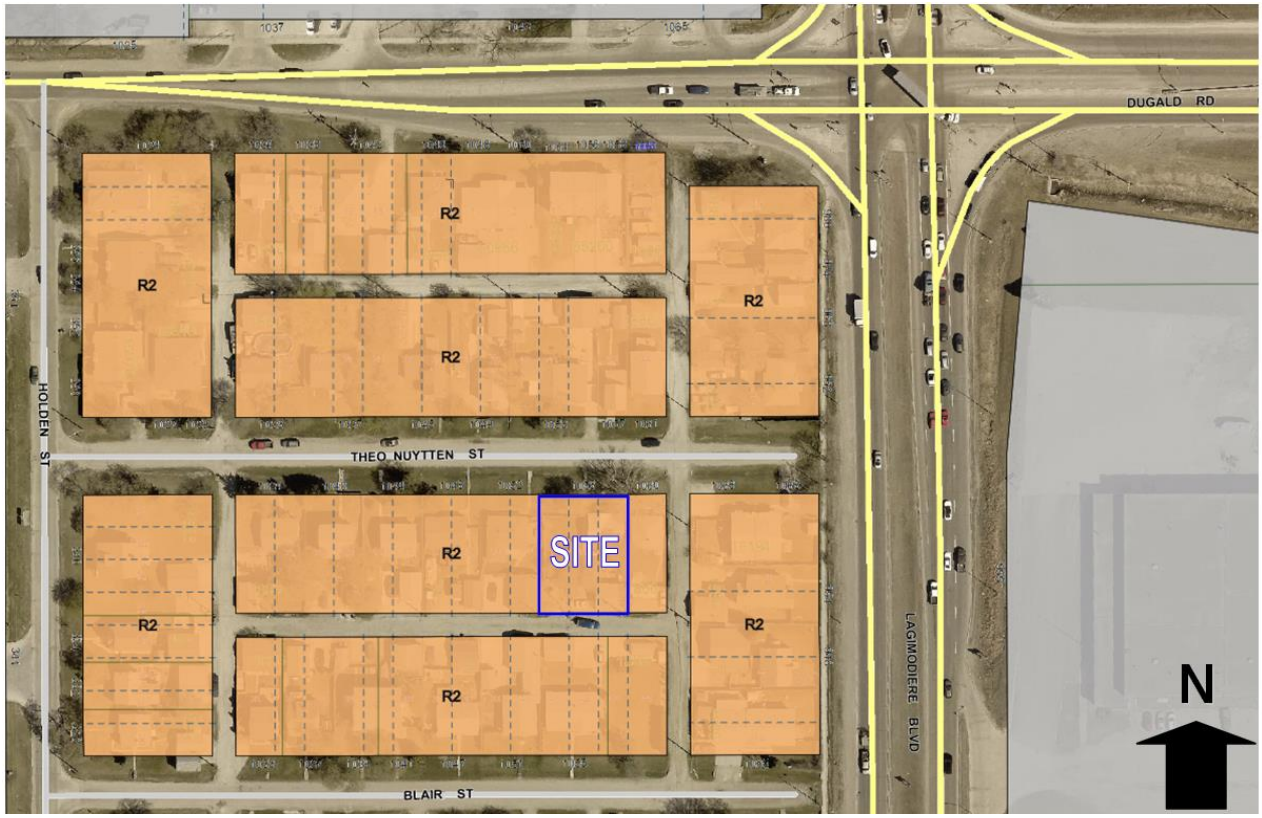

Figure 2: Zoning of the Site and Surrounding Area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to split an existing parcel into two (2) residential zoning lots.
- The existing house (on Lots 10 and 11) will be maintained. On the new lot the applicant intends to construct a new single-family dwelling. Drawings have not been provided.
- Proposed lot widths are of 24.93 feet (Lot 12) and 49.84 feet (Lot 2).
- The proposed lots are serviced by a back lane.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- *The Complete Communities Direction Strategy* is one of four direction strategies supporting *OurWinnipeg*, the city's long-range development plan, and has statutory authority as a secondary plan. The strategy guides land use and development in Winnipeg.
- The subject property is classified as an "Area of Stability" in *Complete Communities'* Urban Structure map. 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 regard to this proposal, the key policies guiding the development of Areas of Stability include:
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.

- Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.
- Support Complete Communities by ensuring diverse and high quality housing stock.
- 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.

CITY OF WINNIPEG ZONING BY-LAW 200/2006

- The Residential two-family (R2) district is intended to accommodate increased residential development in lower-density neighbourhoods.
- In the "R2" Residential Two-Family zoning district, a minimum lot area of 5000 square feet is required. The area for proposed Lot 1 is 3,355 square feet, and the area for proposed Lot 2 is 3,024 square feet. Accordingly, variances are required to establish two residential lots at 471 Ritchot Street.
- The applicant seeks to establish a new residential zoning lot a lot area of 2,532.8 square feet (235.3 square metres) instead of 5,000 square feet (464.5 square metres), and a substandard lot width of 24.93 feet (7.60 metres) instead of 25 feet (7.62 metres) and. As such, variances are required.

ANALYSIS OF VARIANCES

- The site is located in the Areas of Stability – Mature Communities policy area under *the Complete Communities Direction Strategy*. Policies guiding development in the Mature Communities policy area support the subdivision of a parcel of land into two or more lots when it is done in a context-sensitive manner.
- Typically with applications that seek to vary the lot area of residential lots, the Urban Planning Division will base support on existing examples of lots that are the same size as those proposed on the same block. Sometimes one block will have many examples and will be easy to support. In other cases a block may have only a few examples of lots the same size as what is being proposed and are supported based on these limited examples.
- With respect to the subject application, there is an example on the subject block of a property with a similar lot width and lot area as that proposed (1057 Theo Nuytten Street). Based on this example the Urban Planning Division is recommending support of the requested variances.
- The Urban Planning Division supports this type of moderate infill within mature communities for a number of reasons:
  - Has minimal impact on the existing form and adds a moderate increase in density;
  - It is located within close walking distance to the St. Anne's Road Regional Mixed Use Corridor;
  - It provides more people to patronize the local community clubs, schools, parks, libraries, etc.; and,
  - It utilizes existing infrastructure in an efficient manner.

CONDITIONS OF APPROVAL

- In order to ensure the proposed development does not put the subject site into a non-code compliant situation as outlined in the Winnipeg Building By-law 4555-87, approval should be subject to the following conditions:
  - That prior to the issuance of building permits on proposed Lot 12 the existing dwelling on proposed Lots 10 & 11 of LOT 10/12 BLOCK 2 PLAN 1886 RCMP, must be upgraded along the north wall in order to comply with the Winnipeg Building By-law and Manitoba Building Code for spatial separation, to be determined by and thereafter maintained to the satisfaction of the Director of Planning Property and Development.
  - That alcoves, bay windows, vestibules and similar building elements creating interior floor area shall be at least two feet from any side lot line, measured from the exterior finish of said building elements.

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 application is consistent with the Complete Communities Direction Strategy*, which supports the subdivision of a parcel of land into two or more lots when it's done in a context-sensitive manner.*

(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 lot sizes and yards are compatible with the surrounding neighbourhood and will not have an adverse effect on the safety of adjoining properties.

(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, the variances as applied for will allow the applicant to introduce moderate intensification on the subject property which is consistent with the Complete Communities Direction Strategy*.*

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

In that, the proposed lot sizes are consistent with an existing established lot on the subject block and the recommended conditions of approval will help to ensure future development is compatible with existing single family homes on the block.

CONSULTATION

In preparing this report there was internal consultation with: N/A

OUR WINNIPEG POLICY ALIGNMENT

01-1a OurWinnipeg's Approach to City Building

- **Direction 3: Promote compact urban form and manage the extension of municipal services for new growth:**
    - Support new developments that are contiguous with existing developments to minimize the spatial use of land and the extension of services.

01-1c Key Directions for Specific Areas – Areas of Stability

- **Key Direction:** Enhance the quality, diversity, completeness and sustainability of stable neighbourhoods and expand housing options for Winnipeg's changing population.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Strategic Opportunity #4: Facilitate Compact, Complete Development and Increase Density

- **Key Direction 4.2:** Ensure new areas of growth are designed according to the principles of Complete Communities.

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Urban Planning
Prepared by:	Simi Jerez
Date:	Thursday, December 19, 2019
File No.	DAV 19-213055\C

Exhibit "6" referred to in File DAV 213055/2019C

BARNES & DUNCAN 1906
SURVEYING, ENGINEERING & GEOMATICS

6 Donald Street
Winnipeg, Manitoba
R3L 0K6

180-A, 5th Street
Morden, Manitoba
R6M 1C9

Surveyor's Building Location Certificate

ZONING and PERMITS BRANCH
THIS PLAN SUBMITTED FOR APPROVAL IN CONNECTION WITH DAV19-213055/C
SHEET# 1 OF 2
APPLICANT (SGD.)
ZONING OFFICER elao
DATE Nov. 26, 2019

September 23, 2019
November 5, 2019: Revised added Lot 12, Block 2, Plan 1886

4638817 Manitoba Ltd.
3 Merlon Place
Winnipeg, Manitoba, R2P 1H5

Dear Sir/Madam:

Re: 1056 Theo Nuytten Street, Winnipeg

Certificate of Title: 3000351/1 W.L.T.O. (Search Date: September 11, 2019)

Registered Owner: 4638817 Manitoba Ltd.

Legal Description: Lots 10 and 11, Block 2, Plan 1886 WLTO in Roman Catholic Mission Property

Encumbrances: Instruments Numbered 4915962/1 and 5078961/1 are registered against the above Certificate of Title. Encumbrances noted herein are provided for information purposes only and have not been investigated as to their intent or extent.

Certificate of Title: 3000350/1 W.L.T.O. (Search Date: November 4, 2019)

Registered Owner: 4638817 Manitoba Ltd.

Legal Description: Lot 12, Block 2, Plan 1886 WLTO in Roman Catholic Mission Property

Encumbrances: Instruments Numbered 4915962/1 and 5078961/1 are registered against the above Certificate of Title. Encumbrances noted herein are provided for information purposes only and have not been investigated as to their intent or extent.

As requested, this is to certify that we have made the necessary measurements to determine the position of a one storey stucco and vinyl clad dwelling, numbered 1056 on the South side of Theo Nuytten Street, in the City of Winnipeg, and find that the same, above ground level, is contained entirely within limits of the above described land.

The vinyl clad garage, as appurtenant to said dwelling, is contained entirely within the limits of the above described land .

There are no encroachments above ground level onto the above described land by buildings from adjoining properties excepting the eaves of the the stucco garage, as appurtenant to the adjacent property to the west, encroach a maximum of 0.55 feet onto subject property.

PLEASE NOTE THAT NO SURVEY MONUMENTS WERE REQUESTED TO BE INSTALLED AT PROPERTY CORNERS.

This survey was made on the 12th day of September, 2019.

Signed & Sealed

D. Gautron

Daniel B.J. Gautron, M.L.S.

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800-665-6609
Fax: 204-452-7877
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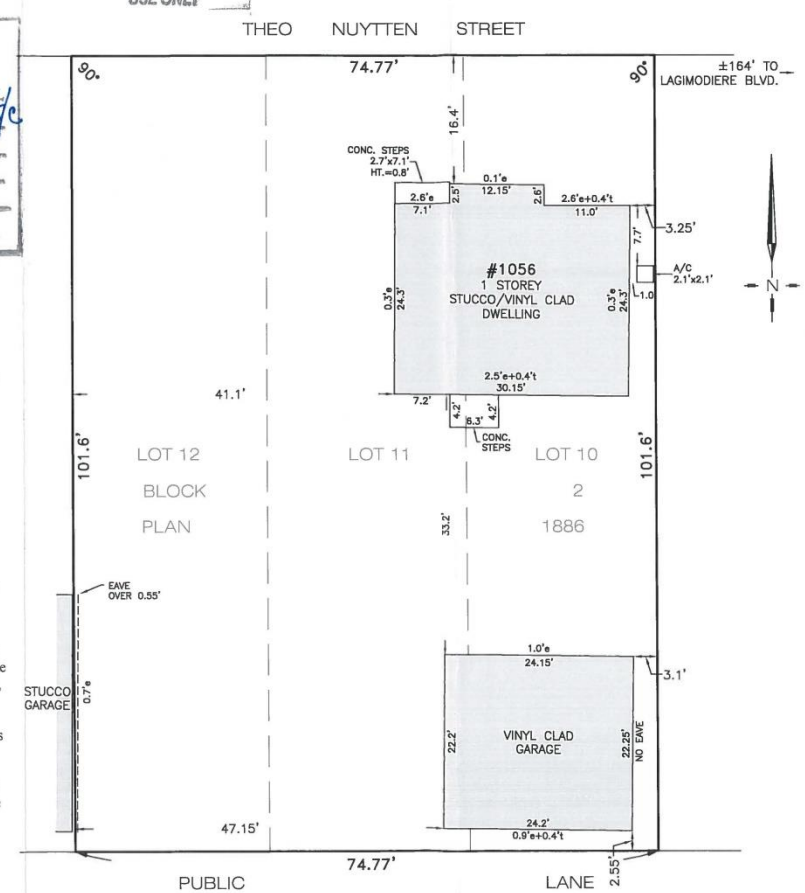
Jesse P.S. Carels, M.L.S., C.L.S., B.Sc. Eng.
Kelly W. Mantik, M.L.S.
Michael E. Sippola, M.L.S.
Daniel B.J. Gautron, M.L.S.
K. Todd Baley, M.L.S.
Johan (John) Dyck, M.L.S.
Brett Carels, P. Eng.

Our File: 19-1006
Acad dwg: 19-1006-1-BLC
Field Book: B&D 1353-91
Drafter: AN

FOR 'CITY OF WINNIPEG' USE ONLY



SKETCH - all distances are in feet and decimals of a foot.

Page 1 of 1

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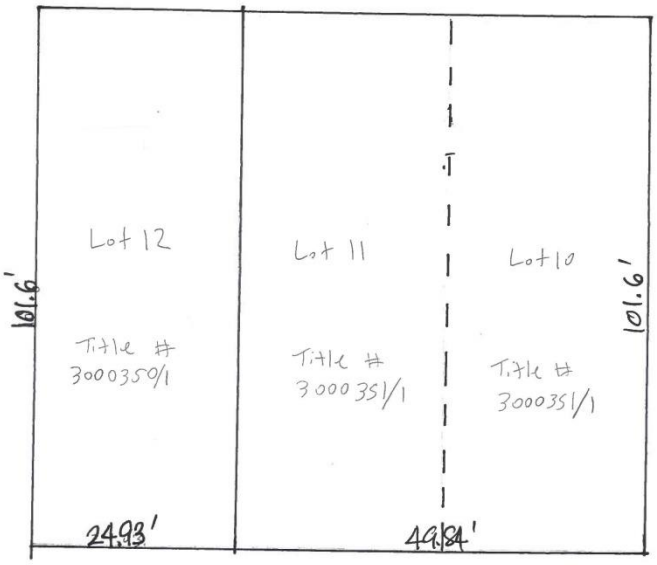
Title Plot and Plan of Subdivision



ZONING and PERMITS
BRANCH
THIS PLAN SUBMITTED FOR APPROVAL
IN CONNECTION WITH DAS19-213857
SHEET# 2 OF 2
APPLICANT (SGD.)
ZONING OFFICER elaw
DATE Nov. 26, 2019