Minutes – Board of Adjustment – January 8, 2020

PUBLIC HEARINGS

Item No. 23 Conditional Use – 309 Des Meurons Street
(St. Boniface Ward)
File DCU 207571/2019C

BOARD OF ADJUSTMENT DECISION:

The Board of Adjustment concurred in the recommendation of the Winnipeg Public Service, as amended, and approved a Conditional Use on "the land" to permit an accessory outdoor dining/drinking use (patio) with an area of 500 square feet, subject to the following conditions:

1. That the Conditional Use granted by the Order shall be operated in compliance with the Neighbourhood Liveability By-law No. 1/2008 (Part 5).

2. No emission or projection of sound, from loudspeakers or from any other sound-amplifying equipment shall extend beyond the perimeter of the patio, audible from any adjacent property.

3. All patio service shall be stopped and all customers relocated inside the establishment by 11:00 p.m.

DECISION MAKING HISTORY:

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

Moved by Bill Evans,

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

Carried

Moved by Bill Evans,

That the receipt of public representations be concluded.

Carried

Moved by Bill Evans,

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 10, 2019.

Carried

DECISION MAKING HISTORY (continued):

Moved by Bill Evans,

That the recommendation of the Winnipeg Public Service be concurred in, with the following amendment:

- In Condition 1, delete the words "Noise Control By-law" and replace with "Neighbourhood Liveability By-law No. 1/2008 (Part 5)"

and the Conditional Use be approved.

Carried

Moved by Bill Evans,

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

Carried

THE CITY OF WINNIPEG
CONDITIONAL USE ORDER
BOARD OF ADJUSTMENT

DCU 207571/2019C

Before:	Board of Adjustment Bill Sawka, Chairperson Bill Evans Joel Remis
Hearing:	January 8, 2020 Council Building, 510 Main Street
Applicant:	Jilmark Construction (Steven Baars)
Premises Affected:	309 Des Meurons Street
Legal Description:	LOT 4 PLAN 29254 80 ST B, hereinafter called “the land”
Property Zoned:	"C2" Commercial Community
Nature of Application:	For a Conditional Use under the Winnipeg Zoning By-Law No. 200/2006 to permit the establishment of an outdoor drinking and dining use exceeding 100 square feet (9.29 square metres)..

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 10, 2019.

ORDER:

The Board of Adjustment orders that a Conditional Use is approved on "the land" to permit an accessory outdoor dining/drinking use (patio) with an area of 500 square feet.

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 the Conditional Use granted by the Order shall be operated in compliance with the Neighbourhood Liveability By-law No. 1/2008 (Part 5).

2. No emission or projection of sound, from loudspeakers or from any other sound-amplifying equipment shall extend beyond the perimeter of the patio, audible from any adjacent property;

3. All patio service shall be stopped and all customers relocated inside the establishment by 11:00 p.m.

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 207571/2019C; 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:

Steven Baars

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 DCU 207571/2019C

1. Application dated November 14, 2019
2. Notification of Public Hearing dated December 12, 2019
3. Manitoba Status of Title 2897695/1
4. Letter of authorization dated October 30, 2019 from Fernand Kirouac, 4597649 Manitoba Ltd., to Steven Baars
5. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
6. Plans, Sheets 1 to 2 inclusive, for File DCU 207571/2019C dated November 8, 2019
7. Report from the Urban Planning Division dated December 10, 2019
8. Inspection Report

Exhibit "7" referred to in File DCU 207571/2019C

ADMINISTRATIVE REPORT

Title: DCU 19-207571\C – 309 Des Meurons ST

Issue: For consideration at the public hearing for a conditional use to permit the establishment of an outdoor drinking and dining use exceeding 100 square feet (9.29 square metres).

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 for a conditional use under Zoning By-Law No. 200/2006 to permit an accessory outdoor dining/drinking use (patio) with an area of 500 square feet, subject to the following conditions:

1) *That the Conditional Use granted by the Order shall be operated in compliance with the Noise Control By-law.*
2) No emission or projection of sound, from loudspeakers or from any other sound-amplifying equipment shall extend beyond the perimeter of the patio, audible from any adjacent property;
3) All patio service shall be stopped and all customers relocated inside the establishment by 11:00pm.

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, a development permit can be issued.

FILE/APPLICANT DETAILS

FILE:	DCU 19-207571\C
RELATED FILES:	
COMMUNITY:	Riel Committee
NEIGHBOURHOOD #:	5.502 - Central St. Boniface
SUBJECT:	For a Conditional Use under Zoning By-Law No. 200/2006 to permit an accessory outdoor dining/drinking use (patio) with an area of 500 square feet.
LOCATION:	309 Des Meurons ST
LEGAL DESCRIPTION:	LOT 4 PLAN 29254 80 ST B
APPLICANT:	Steven Baars 1108 Henderson HWY Unit A Winnipeg , Manitoba R2G 1L1
OWNER:	4597649 MANITOBA LTD. 19 CHIPPAWA BAY Winnipeg , Manitoba R2J 2E3

HISTORY

N/A

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 property is located on Des Meurons Street on the northwest corner of the Marion Street intersection, in the Central St. Boniface neighbourhood of the St Boniface ward.
- The site is situated along the Marion Street Community Mixed Use Corridor under the *Complete Communities Direction Strategy*. The property is approximately 5,187 square feet in area (approximately 95 feet of frontage on Des Meurons Street, and 55 feet on Marion Street) and is zoned "C2" Commercial Community.
- The site is currently occupied by a restaurant use.



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

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Commercial and residential uses zoned "C2" Commercial Community.

South: Marion Street; then a fire hall zoned "C2" Commercial Community.

East: Rue Des Meurons; then commercial uses zoned "C2" Commercial Community.

West: Rear lane; then multi-family dwellings zoned "RMF-M".



Figure 2: Zoning of the Site and Surrounding Area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant has established an outdoor dining and drinking area of 500 square feet for an existing ice cream restaurant/café, and is seeking to bring the patio into compliance.

COLLABORATION

- The applicant submitted drawings including the subject outdoor dining and drinking area (patio) with the permit application related building upgrades, however the patio was missed in the initial analysis. The applicant has since constructed the patio and a 4 foot high wood slat fence along the Marion Street right-of-way.
- The applicant is now applying to bring the patio into compliance with the Zoning By-law, and has been cooperative with providing information.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is located along a Community Mixed-Use Corridor (Marion Street). Key relevant policies guiding development along Community Mixed Use Corridors include:
- Community Mixed Use Corridors act as “main streets” for one more neighbourhoods, providing strong social function. These Corridors provide opportunities for moderate levels of intensification of both residential and commercial uses.
- Relevant policies that guide how development is to occur along our Community Mixed Use Corridors include the following:
  - Promote the enhancement of existing Community Mixed Use Corridors through moderate intensification.

- Focus a broad mix of residential, employment and retail development within strategic locations along corridors.
- Promote the highest levels of intensification at significant intersections. Between each centre, lower intensities of commercial, residential and mixed use development are appropriate.
- Provide a mix of employment, higher-density residential opportunities, retail and service uses that support the needs of and respect the context of adjacent communities.

- Relevant Commercial Area policies that guide how development is to occur within our commercial areas include the following:
  - Encourage the creation of vibrant and high quality commercial developments.
  - Promote principles of high quality design in commercial areas, such as building design, layout and materials, the adequacy of landscaping, parking, access, pedestrian and vehicular circulation and consideration of commercial signage in terms of its size, design and location.
  - Encourage an animated streetscape and "eyes on the street" as determined by the characteristics of the urban structure area in which they are located. This may include placing parking at the rear of buildings with proper screening, orienting buildings and entrances to the public street and blending public and private space thought the use of windows.
  - Support the development of commercial areas in a manner that increases the use of public transit.

CITY OF WINNIPEG ZONING BY-LAW 200/2006

- The Commercial Community (C2) zoning district is intended to accommodate more intensive commercial sites that do not have a local or neighbourhood orientation. The district is intended to include attractive commercial, institutional, recreational, and service facilities needed to support the surrounding neighbourhoods and the broader community.
- C2 districts are generally located in Community or Regional mixed use centres or along Community or Regional mixed use corridors.
- Within the C2 zoning district, outdoor dining and drinking areas are limited to a maximum of 100 square feet. The size of the subject patio requires a conditional use for a floor area exceeding 100 square feet.

ANALYSIS OF CONDITIONAL USE

- Certain uses in the Zoning By-law 200/06 are deemed conditional as they may or may not be appropriate for the particular context considered. As such, conditional uses require a higher level of planning review and analysis to determine suitability.
- The proposed development is located on the Goulet Street Community Mixed Use Corridor under the *Complete Communities Direction Strategy*, and is appropriately located along a mixed use corridor for C2 zoning. As stated above, this policy area supports infill development that provides a mix of employment, a range of higher-density housing types and sizes, as well as commercial uses that support the needs of and respect the context of adjacent communities.

- The proposed development supports objectives in the *Complete Communities Direction Strategy* as it maximizes the use of existing infrastructure, encourages intensification to occur along a corridor, and supports a mix of commercial services and employment uses that serve the local community. It fits within the *Complete Communities* vision of supporting the viability of existing commercial strip, providing a range of housing options, and contributing to a vibrant and complete community, as well as enhancing connectivity and an active street presence.

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, it represents low to moderate change that is consistent with the surrounding neighbourhood and Community Mixed Use Corridor as per the Complete Communities Direction Strategy*.*

(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 commercial uses is compatible with the surrounding neighbourhood and corridor.

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

In that, the proposal compliments the existing uses on the subject block and along Des Meurons Street and Marion Street.

CONSULTATION

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

OUR WINNIPEG POLICY ALIGNMENT

N/A

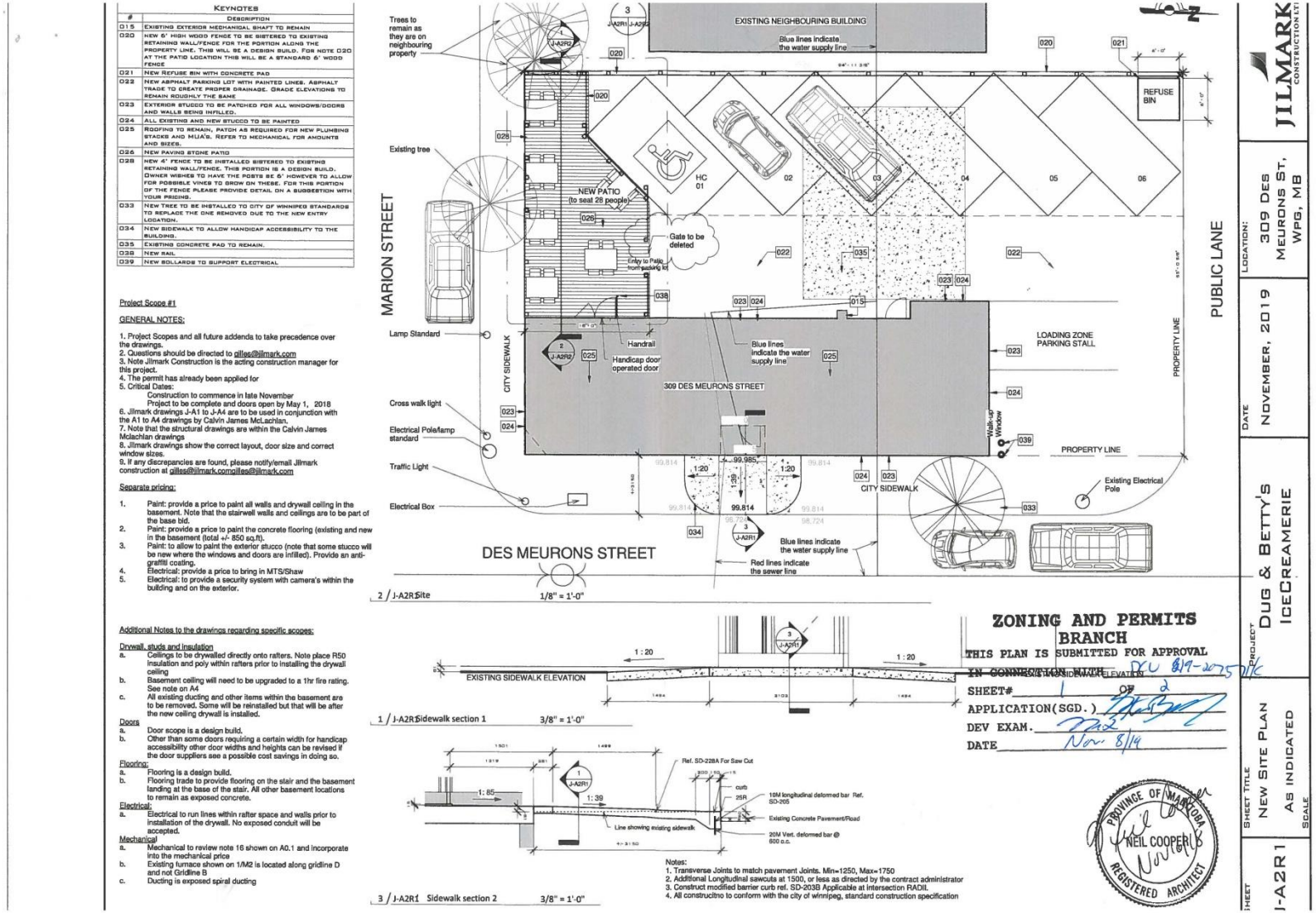
WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Urban Planning
Prepared by: Simi Jerez
Date: Tuesday, December 10, 2019
File No. DCU 19-207571\C

Exhibit “6” referred to in File DCU 207571/2019C



KEYNOTES

#	Description
015	EXISTING EXTERIOR MECHANICAL SHAFT TO REMAIN
020	NEW 6' HIGH WOOD FENCE TO BE SISTERED TO EXISTING RETAINING WALL/FENCE FOR THE PORTION ALONG THE PROPERTY LINE. THIS WILL BE A DESIGN BUILD. FOR NOTE D20 AT THE PATIO LOCATION THIS WILL BE A STANDARD 6' WOOD FENCE
021	NEW REFUSE BIN WITH CONCRETE PAD
022	NEW ASPHALT PARKING LOT WITH PAINTED LINES. ASPHALT TRADE TO CREATE PROPER DRAINAGE. GRADE ELEVATIONS TO REMAIN ROUGHLY THE SAME
023	EXTERIOR STUCCO TO BE PATCHED FOR ALL WINDOWS/DOORS AND WALLS BEING INFILLED.
024	ALL EXISTING AND NEW STUCCO TO BE PAINTED
025	ROOFING TO REMAIN, PATCH AS REQUIRED FOR NEW PLUMBING STACKS AND MUA'S. REFER TO MECHANICAL FOR AMOUNTS AND SIZES.
026	NEW PAVING STONE PATIO
028	NEW 4' FENCE TO BE INSTALLED SISTERED TO EXISTING RETAINING WALL/FENCE. THIS PORTION IS A DESIGN BUILD. OWNER WISHES TO HAVE THE POSTS BE 6' HOWEVER TO ALLOW FOR POSSIBLE VINES TO GROW ON THESE. FOR THIS PORTION OF THE FENCE PLEASE PROVIDE DETAIL ON A SUGGESTION WITH YOUR PRICING.
033	NEW TREE TO BE INSTALLED TO CITY OF WINNIPEG STANDARDS TO REPLACE THE ONE REMOVED DUE TO THE NEW ENTRY LOCATION.
034	NEW SIDEWALK TO ALLOW HANDICAP ACCESSIBILITY TO THE BUILDING.
035	EXISTING CONCRETE PAD TO REMAIN.
038	NEW RAIL
039	NEW BOLLARDS TO SUPPORT ELECTRICAL

Project Scope #1

GENERAL NOTES:

1. Project Scopes and all future addenda to take precedence over the drawings.
2. Questions should be directed to gilles@jilmark.com
3. Note Jilmark Construction is the acting construction manager for this project.
4. The permit has already been applied for
5. Critical Dates:
   Construction to commence in late November
   Project to be complete and doors open by May 1, 2018
6. Jilmark drawings J-A1 to J-A4 are to be used in conjunction with the A1 to A4 drawings by Calvin James McLachlan.
7. Note that the structural drawings are within the Calvin James Mclachlan drawings
8. Jilmark drawings show the correct layout, door size and correct window sizes.
9. If any discrepancies are found, please notify/email Jilmark construction at gilles@jilmark.comgilles@jilmark.com

Separate pricing:

1. Paint: provide a price to paint all walls and drywall ceiling in the basement. Note that the stairwell walls and ceilings are to be part of the base bid.
2. Paint: provide a price to paint the concrete flooring (existing and new in the basement (total +/- 850 sq.ft).
3. Paint: to allow to paint the exterior stucco (note that some stucco will be new where the windows and doors are infilled). Provide an anti-graffiti coating.
4. Electrical: provide a price to bring in MTS/Shaw
5. Electrical: to provide a security system with camera's within the building and on the exterior.

Additional Notes to the drawings regarding specific scopes:

Drywall, studs and insulation
a. Ceilings to be drywalled directly onto rafters. Note place R50 insulation and poly within rafters prior to installing the drywall ceiling
b. Basement ceiling will need to be upgraded to a 1hr fire rating. See note on A4
c. All existing ducting and other items within the basement are to be removed. Some will be reinstalled but that will be after the new ceiling drywall is installed.

Doors
a. Door scope is a design build.
b. Other than some doors requiring a certain width for handicap accessibility other door widths and heights can be revised if the door suppliers see a possible cost savings in doing so.

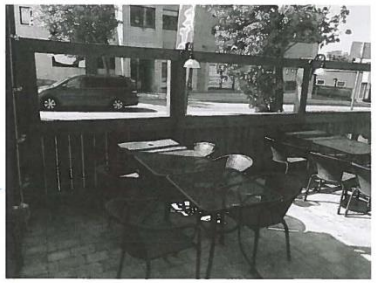
Flooring:
a. Flooring is a design build.
b. Flooring trade to provide flooring on the stair and the basement landing at the base of the stair. All other basement locations to remain as exposed concrete.

Electrical:
a. Electrical to run lines within rafter space and walls prior to installation of the drywall. No exposed conduit will be accepted.

Mechanical
a. Mechanical to review note 16 shown on A0.1 and incorporate into the mechanical price
b. Existing furnace shown on 1/M2 is located along gridline D and not Gridline B
c. Ducting is exposed spiral ducting

ZONING AND PERMITS BRANCH

THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH 19-D075 [illegible]
SHEET# 2 OF 2
APPLICATION(SGD.) [illegible]
DEV EXAM. [illegible]
DATE Nov 8/19

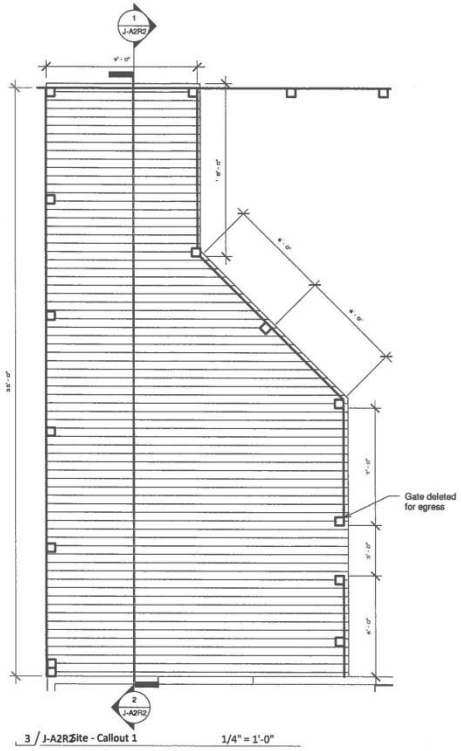




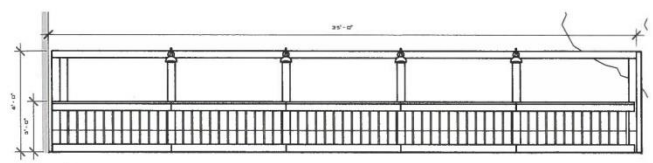




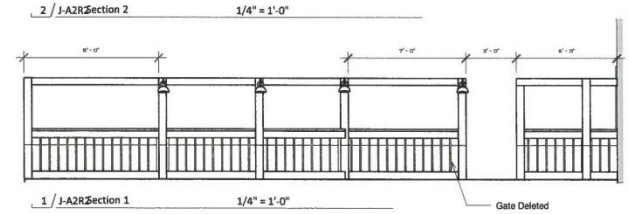




3 / J-A2R2 Site - Callout 1 1/4" = 1'-0"



2 / J-A2R2 Section 2 1/4" = 1'-0"



1 / J-A2R2 Section 1 1/4" = 1'-0"

JILMARK CONSTRUCTION LTD

LOCATION: 309 DES MEURONS ST, WPG, MB

DATE NOVEMBER, 2019

PROJECT DUG & BETTY'S ICECREAMERIE

SHEET TITLE PATIO ELEVATIONS 1/4" = 1'-0"

SCALE

SHEET I-A2R2