Minutes – Board of Adjustment – January 8, 2020

PUBLIC HEARINGS

Item No. 24 Variance – 71 St. Michael Road
(St. Vital Ward)
File DAV 197694/2019C

BOARD OF ADJUSTMENT DECISION:

The Board of Adjustment concurred in the recommendation of the Winnipeg Public Service, as amended, and approved a Variance on "the land" for the establishment of three residential lots to permit as follows:

1. On Proposed Lots 1 and 2:

    A. a lot area of 5,058 square feet (469.9 square metres)

    B. a lot width of 42 feet (12.80 metres)

2. On Proposed Lot 3:

    A. a lot area of 6,387 square feet (593.4 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 any principal dwelling located on the subject properties shall provide an entrance on the building elevation facing the front yard.

3. That each newly constructed dwelling shall be distinctly different from one another in terms of the design, and incorporate a balance of varying materials into the front façade.

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

    A. buildings including elevations of the front façades identifying proposed finishing materials
    B. accessory parking areas
    C. driveways
    D. fencing
    E. landscaping

BOARD OF ADJUSTMENT DECISION (continued):

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.

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 for the proposed Lot 3, a private vehicular approach shall not be permitted on St. Michael Road.

7. That an arborist's report on the viability of retaining existing trees be submitted to the Director of Planning, Property and Development for information.

8. That the owner must submit a landscaping plan, showing the locations and species of existing trees to be retained in accordance with the arborist's report.

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 11, 2019.

Carried

DECISION MAKING HISTORY (continued):

Moved by Joel Remis,

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

- Delete Condition 2 in its entirety and renumber the remaining recommendations accordingly

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 197694/2019C

Before:	Board of Adjustment Bill Sawka, Chairperson Bill Evans Joel Remis
Hearing:	January 8, 2020 Council Building, 510 Main Street
Applicant:	Blue Bella Draft Design (Steven Ulrich)
Premises Affected:	71 St. Michael Road
Legal Description:	LOT 4 PLAN 25468 46 ST V, hereinafter called “the land”
Property Zoned:	"R1-M" Residential Single-Family-Medium
Nature of Application:	To vary the "R1-M" District Dimensional standards of the Winnipeg Zoning By-Law No. for the establishment of 3 residential lots to permit as follows: 1. On Proposed Lots 1 and 2: A. Lot areas of 5,058 square feet (469.9 square metres) instead of 6,964.6 square feet (647.0 square metres) B. Lot widths of 42 feet (12.80 metres) instead of 47.4 feet (14.45 metres). On Proposed Lot 3: A. A lot area of 6,387 square feet (593.4 square metres) instead of 6,964.6 square feet (647.0 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 11, 2019.

ORDER:

The Board of Adjustment orders that the provisions of the "R1-M" District Dimensional standards of the Winnipeg Zoning By-law No. 200/2006 are varied on “the land” for the establishment of three residential lots to permit as follows:

1. On Proposed Lots 1 and 2:

    A. a lot area of 5,058 square feet (469.9 square metres)

    B. a lot width of 42 feet (12.80 metres)

2. On Proposed Lot 3:

    A. a lot area of 6,387 square feet (593.4 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 any principal dwelling located on the subject properties shall provide an entrance on the building elevation facing the front yard.

3. That each newly constructed dwelling shall be distinctly different from one another in terms of the design, and incorporate a balance of varying materials into the front façade.

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

   A. buildings including elevations of the front façades identifying proposed finishing materials
   B. accessory parking areas
   C. driveways
   D. fencing
   E. 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.

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 for the proposed Lot 3, a private vehicular approach shall not be permitted on St. Michael Road.

7. That an arborist's report on the viability of retaining existing trees be submitted to the Director of Planning, Property and Development for information.

8. That the owner must submit a landscaping plan, showing the locations and species of existing trees to be retained in accordance with the arborist's report.

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 197694/2019C; 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 Ulrich

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 197694/2019C

1. Application dated December 12, 2019
2. Notification of Public Hearing dated December 12, 2019
3. Manitoba Status of Title 1168204/1
4. Letter of authorization dated September 18, 2019 from Robert Gordon Bryce and Lois Mary Bryce to Steven Ulrich, BBDD Inc.
5. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
6. Plans, Sheet 1 for File DAV 197694/2019C dated October 11, 2019
7. Report from the Urban Planning Division dated December 11, 2019
8. Inspection Report

Exhibit "7" referred to in File DAV 197694/2019C

ADMINISTRATIVE REPORT

Title: DAV 19-197694\C – 71 St. Michael Road

Issue: For consideration at the public hearing for variances associated with the establishment of three 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
J. Hildebrand	n/a	n/a	

RECOMMENDATIONS

The Urban Planning Division recommends approval of the application to vary the 'R1-M' dimensional standards of Zoning By-Law No. for the establishment of 3 residential lots to permit as follows:

1) On Proposed Lots 1 and 2:
    a) a lot area of 5058 square feet (469.9 square metres) instead of 6964.6 square feet (647.0 square metres)
    b) a lot width of 42 feet (12.80 metres) instead of 47.4 feet (14.45 metres).
2) On Proposed Lot 3:
    a) a lot area of 6387 square feet (593.4 square metres) instead of 6964.6 square feet (647.0 square metres)

Subject to the following condition(s):

1) That, the height of principal buildings shall be limited to a maximum of 30 feet.
2) That, there shall be no new garages constructed attached to any principal dwelling on the subject property.
3) That, any principal dwelling located on the subject properties shall provide an entrance on the building elevation facing the front yard.
4) That, each newly constructed dwelling shall be distinctly different from one another in terms of the design, and incorporate a balance of varying materials into the front façade.

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

   i. buildings including elevations of the front façades identifying proposed finishing materials;
   ii. accessory parking areas;
   iii. driveways;
   iv. fencing;
   v. 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.

6) 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.

7) That for the proposed Lot 3, a private vehicular approach shall not be permitted on St. Michael Road.

8) That an arborist's report on the viability of retaining existing trees be submitted to the Director of Planning, Property and Development for information.

9) That the owner must submit a landscaping plan, showing the locations and species of existing trees to be retained in accordance with the arborist's report.

REASON FOR THE REPORT

- 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 variances will be approved.

FILE/APPLICANT DETAILS

FILE:	**DAV 19-197694\C**
RELATED FILES:	DASSF 562/19
COMMUNITY:	Riel Committee
NEIGHBOURHOOD #:	5.521 (Pulberry)
SUBJECT:	To vary the "R1-M" dimensional standards of Zoning By-Law No. for the establishment of 3 residential lots to permit as follows: 1. On Proposed Lots 1 and 2: a) a lot area of 5058 square feet (469.9 square metres) instead of

6964.6 square feet (647.0 square metres)
b) a lot width of 42 feet (12.80 metres) instead of 47.4 feet (14.45 metres).
On Proposed Lot 2:
a)a lot area of 6387 square feet (593.4 square metres) instead of 6964.6 square feet (647.0 square metres)

LOCATION: 71 St Michael RD
LEGAL DESCRIPTION: LOT 4 PLAN 25468 46 ST V

APPLICANT: Steven Ulrich
16 Courtwood PL
Winnipeg , Manitoba R2J 3J7

OWNER: ROBERT G & LOIS M BRYCE
71 ST MICHAEL RD
Winnipeg , Manitoba R2M 2K8

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 north side of St. Michael Road, immediately west of Glen Meadow Street, in the Pulberry neighbourhood of the St Vital ward.
- The site is 16,526 square feet in area, and contains a single-family dwelling built in 1946, as well as to accessory structures (a garage and shed) at the rear of the property.
- There lot does not currently have an approach or driveway access; vehicles access the property off of Glen Meadow Street by driving over the curb and parking on the grass (see Figure 3).
- The site falls within the ‘Areas of Stability – Recent Community’ policy area under the *Complete Communities Direction Strategy*.

- The property is zoned ‘R1-M’ Residential Single-Family Medium.



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

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Single-family residential uses zoned ‘R1-M’ Single-Family Medium, then Bethune Way, then residential uses zoned ‘R1-M’ Single-Family Medium.

South: St. Michael Road, then residential uses zoned ‘R1-M’ Single-Family Medium.

East: Glen Meadow Street, then residential uses zoned ‘R1-M’ Single-Family Medium.

West: Residential uses zone ‘R1-M’ Single-Family Medium.



Figure 2: Zoning of the site and surrounding area.



Figure 3: Current mode of vehicular access and parking.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to subdivide an existing 137-foot-wide lot into three residential zoning lots. The proposed Lots 1 and 2 will be 5,058 square feet in area and 42 feet in width. The proposed Lot 3 will be approximately 53 feet wide and 6,387 square feet in area.
- The applicant intends to allow for two new single-family homes to be constructed on the proposed Lots 1 and 2. The existing single-family dwelling on the proposed Lot 3 is intended to remain, along with the existing accessory structures.
- There is a corresponding subdivision application (DASSF 562/19). The application was circulated to relevant City departments, with one concern raised – that for the proposed Lot 3, an approach be established off of Glen Meadow Drive.

COLLABORATION

- The applicant corresponded with the Urban Planning Division for feedback on the proposal, prior to submitting the Subdivision and Variance applications. Part of this discussion included the statement from the Urban Planning Division that an arborist report would be required, given the large amount of trees on the lot.

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 – Recent Community' in *Complete Communities*' Urban Structure Map. Areas of Stability will accommodate low-to-moderate-density infill development to support a 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 build 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 the subdivision of a parcel of land into two or more lots when it is done in a context-sensitive manner.

CITY OF WINNIPEG ZONING BY-LAW 200/2006

- The Special Boundary Condition of Zoning Bylaw 200/2006 applies to any parcel of land in an 'R1' or 'R2' zoning district located within 200 feet of existing residential lots zoned 'R1' or 'R2.' This condition states that the subject parcel must not be subdivided unless the proposed lot area and lot width are not less than the average lot area and lot width of these existing residential lots.
- The average area of lots within 200 feet of the subject property is 6,964.6 square feet and the average with of lots within 200 feet is 47.4 feet. For the proposed Lots 1 and 2, the applicant is proposing lot areas and widths that are are less than these averages. For the proposed Lot 3, the applicant is proposing a lot area that is less than the average. Therefore, variances are required.

ANALYSIS OF VARIANCES

- The site is located in the 'Areas of Stability – Recent Communities' policy area under the *Complete Communities Direction Strategy*. Policies guiding development in Areas of Stability support the subdivision of a parcel of land into two 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.
- On this particular block of St. Michael Road, there is one lot (93 St. Michael) with a smaller lot area than that of the proposed Lots 1 and 2. There are also two lots (93 and 82 St. Michael) with lot widths that are narrower than the proposed Lots 1 and 2.
- The subject block also contains 11 lots (103, 101, 97, 93, 91, 89, 87, 85, 83, 81, and 79 St. Michael) with a smaller lot areas than those of the proposed Lot 3, and the majority of lots on the block have widths that are narrower than that of the proposed Lot 3.
- Given that the proposed subdivision would therefore not be introducing a smaller lot size than what currently exists on the block, and given that the proposed subdivision will retain an existing dwelling, the Urban Planning Division is recommending support of the variances.
- The Urban Planning Division supports this type of moderate infill within Areas of Stability for a number of reasons:
    - it has minimal impact on the existing form and adds a moderate increase in density;
    - it provides more people to patronize local community clubs, schools, parks, libraries, etc.;
    - it utilizes infrastructure in an efficient manner, and;
    - in the case of the subject property, it will result in the preservation of an existing dwelling.

COMPATIBILITY WITH SURROUNDING AREA

- The recommended conditions of approval associate with restricting height, attached garages, and requiring an entrance on the front building elevation are all included to help ensure future development complements the reduced size of the new lots and is compatible with the majority of homes in the area.

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 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 sizes of the proposed Lots 1 and 2 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 variance as applied for will allow the applicant to retain an existing dwelling and 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 proposal will retain an existing dwelling, and the recommended conditions of approval will help to ensure that any new dwelling will be compatible with existing single-family homes on the block.

CONSULTATION

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

OURWINNIPEG 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

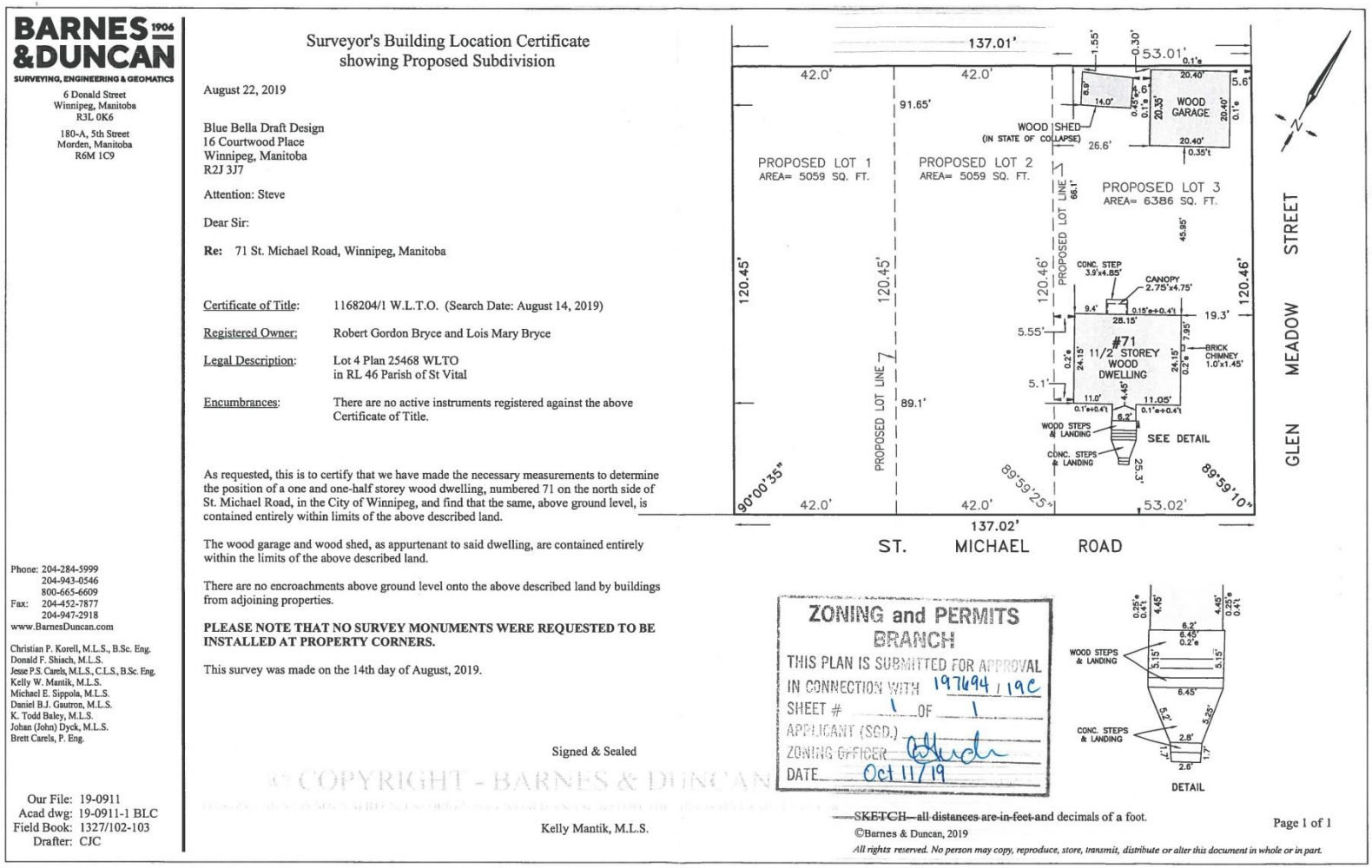
Strategic Opportunity #4: Facilitate Compact, Complete Development and Increase Density

- **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:	Jonathan Hildebrand MCIP, RPP
Date:	Wednesday, December 11, 2019
File No.	DAV 19-197694\C

Exhibit “6” referred to in File DAV 197694/2019C



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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: 19-0911
Acad dwg: 19-0911-1 BLC
Field Book: 1327/102-103
Drafter: CJC

Surveyor's Building Location Certificate showing Proposed Subdivision

August 22, 2019

Blue Bella Draft Design
16 Courtwood Place
Winnipeg, Manitoba
R2J 3J7

Attention: Steve

Dear Sir:

Re: 71 St. Michael Road, Winnipeg, Manitoba

Certificate of Title: 1168204/1 W.L.T.O. (Search Date: August 14, 2019)

Registered Owner: Robert Gordon Bryce and Lois Mary Bryce

Legal Description: Lot 4 Plan 25468 WLTO in RL 46 Parish of St Vital

Encumbrances: There are no active instruments registered against the above Certificate of Title.

As requested, this is to certify that we have made the necessary measurements to determine the position of a one and one-half storey wood dwelling, numbered 71 on the north side of St. Michael Road, in the City of Winnipeg, and find that the same, above ground level, is contained entirely within limits of the above described land.

The wood garage and wood shed, as appurtenant to said dwelling, are 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.

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

This survey was made on the 14th day of August, 2019.

Signed & Sealed

Kelly Mantik, M.L.S.

ZONING and PERMITS BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH 197694 / 19C
SHEET # 1 OF 1
APPLICANT (SGD.)
ZONING OFFICER
DATE Oct 11/19

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

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