Minutes – Board of Adjustment – January 22, 2020

PUBLIC HEARINGS

Item No. 2 Variance – 333 Melrose Avenue East
(Transcona Ward)
File DAV 218354/2019C

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 lots to permit as follows:

1. On lot 1, a lot area of 2,698 square feet (250.6 square metres); and

2. On lot 2, a lot area of 2,698 square feet (250.6 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 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.

6. 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.

7. 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.

DECISION MAKING HISTORY:

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

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

Carried

Moved by Bill Maretski,
That the receipt of public representations be concluded.

Carried

Moved by Bill Maretski,
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 January 13, 2020.

Carried

DECISION MAKING HISTORY (continued):

Moved by Bill Maretski,

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

Carried

Moved by Bill Maretski,

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

Carried

THE CITY OF WINNIPEG
VARIANCE ORDER
BOARD OF ADJUSTMENT

DAV 218354/2019C

Before:	Board of Adjustment Bill Sawka, Chairperson Bill Maretski Joel Remis
Hearing:	January 22, 2020 Council Building, 510 Main Street
Applicant:	Blue Bella Draft Design (Steven Ulrich)
Premises Affected:	333 Melrose Avenue East
Legal Description:	LOT 1/2 BLOCK 12 PLAN 1504 4/5 11 4E, hereinafter called “the land”
Property Zoned:	"R2 C1" Residential Two-Family Commercial Neighbourhood
Nature of Application:	To vary the "R2” and “C1" District Dimensional standards of the Winnipeg Zoning By-Law No. 200/2006 for the establishment of two residential lots to permit as follows: 1. On lot 1, a lot area of 2,698 square feet (250.6 square metres) instead of 3,500 square feet (325.2 square metres). 2. On lot 2, a lot area of 2,698 square feet (250.6 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 January 13, 2020.

ORDER:

The Board of Adjustment orders that the provisions of the "R2" and "C1" District Dimensional standards of the Winnipeg Zoning By-Law No. 200/2006 are varied on "the land" for the establishment of two residential lots to permit as follows:

1. On lot 1, a lot area of 2,698 square feet (250.6 square metres); and

2. On lot 2, a lot area of 2,698 square feet (250.6 square metres).

Subject to the following conditions, 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 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.

6. 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.

7. 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.

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

DATE OF ORDER: January 24, 2020

CERTIFIED BY:



L. Cowan
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 February 12, 2020;

[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(e) refer to Variance Order No. DAV 218354/2019C; 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:

D. Harris, Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DAV 218354/2019C

1. Application dated December 23, 2019
2. Notification of Public Hearing dated January 2, 2020
3. Manitoba Status of Title 3037279/1
4. Letter of authorization dated December 3, 2019 from Joel Smith and Kathryn Smith to Steven Ulrich (BBDD Inc.)
5. Surveyor's Building Location Certificate and sketch dated November 26, 2019
6. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
7. Petition in support of the application purporting to contain the signatures of 2 area residents, submitted by the applicant
8. Plans, Sheets 1 to 2 inclusive, for File DAV 218354/2019C dated December 19, 2019
9. Report from the Urban Planning Division dated January 13, 2020
10. Inspection Report

Exhibit “9” referred to in File DAV 218354/2019C

ADMINISTRATIVE REPORT

Title: DAV 19-218354C – 333 Melrose Avenue East

Issue: Proposed Variances to Permit 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
James Veitch	n/a	n/a	

RECOMMENDATIONS

The Urban Planning and Design Division recommends approval of the application to vary the "R2" Residential Two-Family and "C1" Commercial Neighbourhood dimensional standards of Zoning By-Law No. 200/2006 for the establishment of two residential lots to permit as follows:

1) On lot 1, a lot area of 2698 square feet (250.6 square metres) instead of 3500 square feet (325.2 square metres); and
2) On lot 2, a lot area of 2698 square feet (250.6 square metres) instead of 5000 square feet (464.5 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 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 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.
6) 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; and
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.

7) 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 REPORT

This report describes the proposed variances and the proposed development and makes recommendations based on their compliance with *The City of Winnipeg Charter.*

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning and Design Division are concurred in, the proposal can proceed.

FILE/APPLICANT DETAILS

FILE:	**DAV 19-218354C**
COMMUNITY:	East Kildonan – Transcona
NEIGHBOURHOOD #:	402 (Melrose)
SUBJECT:	application to vary the "R2" Residential Two-Family and "C1" Commercial Neighbourhood dimensional standards of Zoning By-Law No. 200/2006 for the establishment of two residential lots to permit as follows: 1) On lot 1, a lot area of 2698 square feet (250.6 square metres) instead of 3500 square feet (325.2 square metres); and 2) On lot 2, a lot area of 2698 square feet (250.6 square metres) instead of 5000 square feet (464.5 square metres).
LOCATION:	333 Melrose Avenue East
LEGAL DESCRIPTION:	Lots 1 and 2, Block 12, Plan 1504 WLTO
APPLICANT:	Steven Ulrich 16 Courtwood PL Winnipeg , Manitoba

R2J 3J7

OWNER: Kathryn Michelle Smith and Joel Oliver Smith

DISCUSSION

CRITERIA FOR APPROVAL

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

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

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

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

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

SITE DESCRIPTION

The subject site, identified on Figures 1 and 2:

- is at the northwest corner of Melrose Avenue East and Roanoke Street;
- is in the Transcona Ward;
- consists of two lots that are each 27 feet wide and 2698 square feet;
- contains a single-family dwelling and accessory structures;
- is accessed by motor-vehicle from a public lane at the rear of the property; and
- is in a Mature Communities Policy Area of *OurWinnipeg* and *Complete Communities.*

The west half of the site, which is Lot 2 of Block 12, Plan 1504, is zoned “R2” Residential Two-Family and the east half, which is Lot 1 of Block 12, Plan 1504, is zoned “C1” Commercial Community.

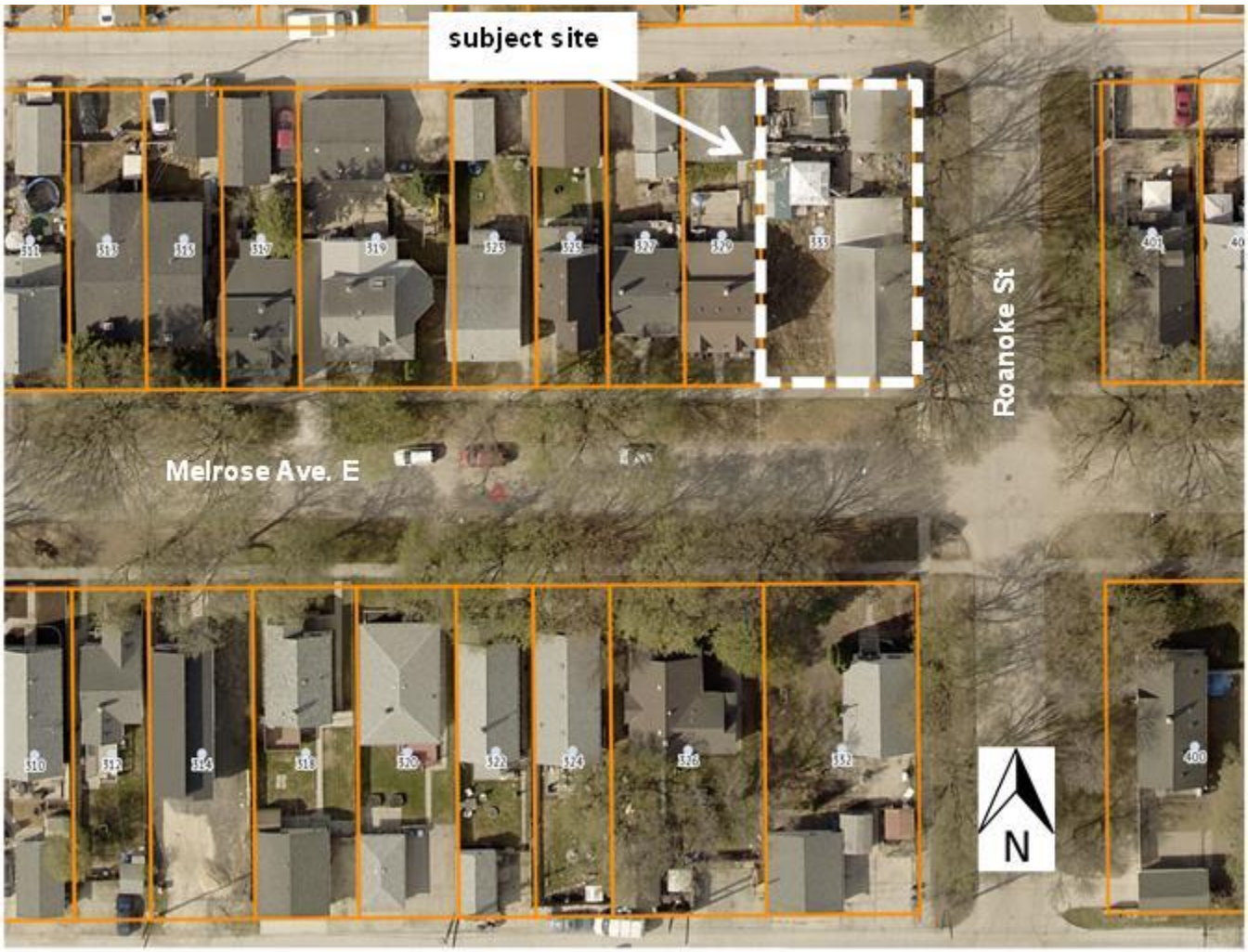


Figure 1: 2018 Aerial Photography

SURROUNDING LAND USE AND ZONING

The area in which the site is located is shown on Figures 1 and 2.

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

East: Roanoke Street then single-family dwellings zoned “R1-M.”

South: Melrose Avenue East then single-family dwellings zoned “R1-M.”

West: single-family dwellings zoned “R2.”

Also of note are:

- that several single-family dwellings on the same block as the site (both sides of Melrose East) are on lots that are 27 feet wide and approximately 2700 square feet; and
- that all the properties on Melrose Avenue East that are near the site contain a single-family dwelling and a parking area directly accessible from the public lane.

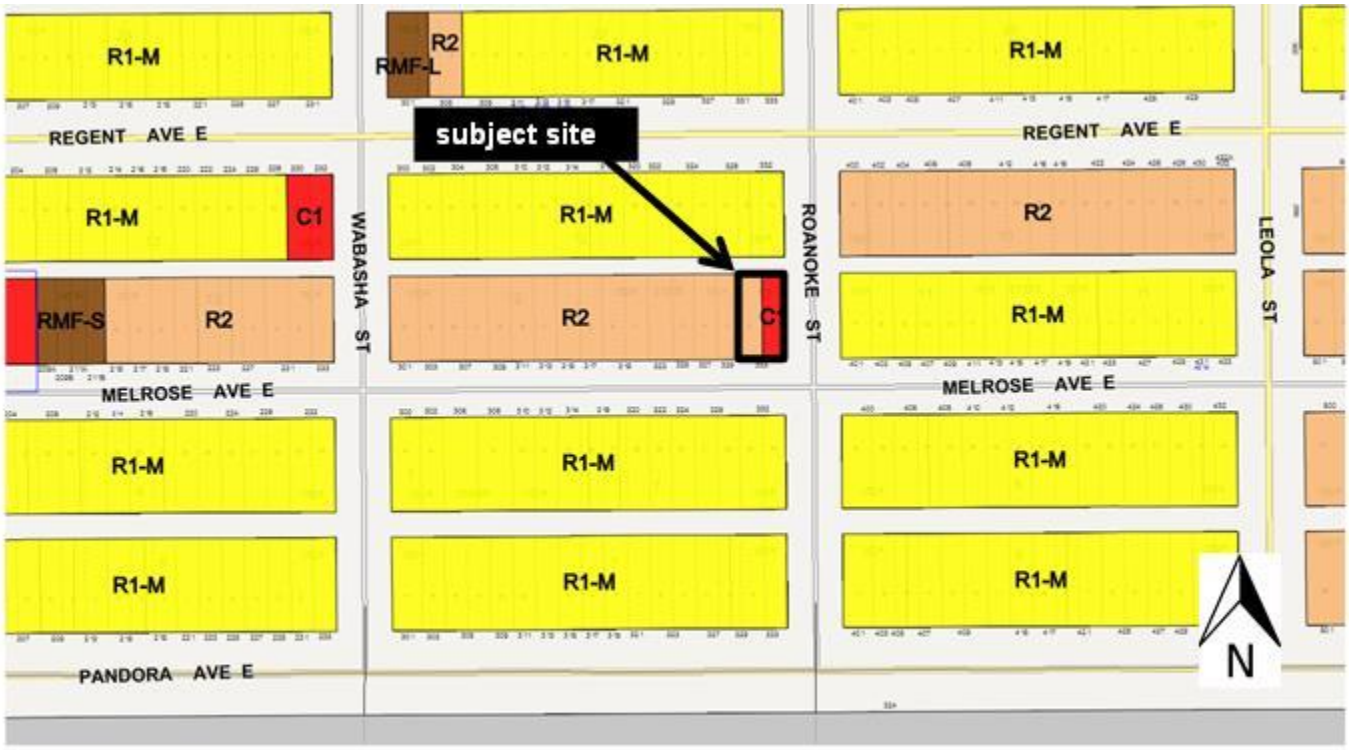


Figure 2: Existing Zoning

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development includes:

- the removal of all existing structures; and
- the construction of a single-family dwelling and a parking area directly accessible from the public lane on each lot.

Detailed plans of the proposed development have not yet been produced.

The minimum lot area requirement of the “R2” Residential Two-Family Zoning District is 5000 square feet for single-family dwellings. The minimum lot area requirement of the “C1” Commercial Community Zoning District is 3500 square feet for single-family dwellings. “Single-family dwelling” is a permitted use in both of these zoning districts.

In order to make each lot “buildable,” these requirements must be varied because the existing lots are only 2698 square feet.

ANALYSIS AND ISSUES

OURWINNIPEG AND COMPLETE COMMUNITIES

OurWinnipeg is the City's development plan and *Complete Communities* is a Direction Strategy that contains additional policies on land use and development.

The Areas of Stability sections of *OurWinnipeg* and *Complete Communities* apply to the Mature Communities policy area. (As previously stated, the subject site is in a Mature Communities Policy Area.)

The Key Direction of the Areas of Stability sections states:

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

The Areas of Stability policies of *Complete Communities* that pertain to the proposal state:

> *Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complementary 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.*
>
> *Encourage intensification to occur at centres and along corridors.*
>
> *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.*

The proposed variances comply with these policies because:

- the proposal would add two new single-family dwellings to the neighbourhood;
- a single-family dwelling and a parking area directly accessible from the public lane would be developed on each lot that the site is comprised of, which is consistent with existing developments along Melrose Avenue East, near the site; and
- each lot that the site is comprised of is the same width and nearly the same size as nearby lots along Melrose Avenue East.

COMPATIBILITY AND ADVERSE EFFECT

The proposed variances are compatible with the area, and have no adverse effect on it, because:

- a single-family dwelling and a parking area directly accessible from the public lane would be developed on each lot that the site is comprised of, which is consistent with existing developments along Melrose Avenue East, near the site; and
- each lot that the site is comprised of is the same width and nearly the same size as nearby lots along Melrose Avenue East.

ZONING BY-LAW'S EFFECT ON SUBJECT SITE AND MODIFICATION OF ZONING BY-LAW

A zoning by-law should be consistent with the Development Plan and any applicable Secondary Plan. The analysis above shows that the proposed variances comply with *OurWinnipeg* and *Complete Communities* and that they are compatible with the neighbourhood in which the site is located. Therefore:

- Zoning By-law 200/2006 has an injurious effect on the site; and
- the proposed variances are the minimum modification required to relieve that effect.

REASONS FOR THE RECOMMENDATIONS

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

a) the proposed variances are consistent with Plan Winnipeg and any applicable secondary plan;

in that they comply with *OurWinnipeg* and *Complete Communities*;

b) the proposed variances do 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 they are compatible with the neighbourhood;

c) the proposed variances are the minimum modifications of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property;

in that the proposed variances comply with *OurWinnipeg* and *Complete Communities* and are compatible with the neighbourhood;

d) the proposed variances are compatible with the area in which the property to be affected is situated;

in that

- a single-family dwelling and a parking area directly accessible from the public lane would be developed on each lot that the site is comprised of, which is consistent with existing developments along Melrose Avenue East, near the site; and
- each lot that the site is comprised of is the same width and nearly the same size as nearby lots along Melrose Avenue East.

The recommended conditions of approval (stated in the "recommendations" section) are to ensure that the design of the proposed development will be compatible with the existing neighbourhood.

CONSULTATION

N/A

OURWINNIPEG POLICY ALIGNMENT

The proposed variances align with *OurWinnipeg* because, as stated above, they align with the Key Direction of *OurWinnipeg* that applies to the Mature Communities Policy Area, which states: "*Enhance the quality, diversity, completeness and sustainability of stable neighbourhoods and expand housing options for Winnipeg's changing population."*

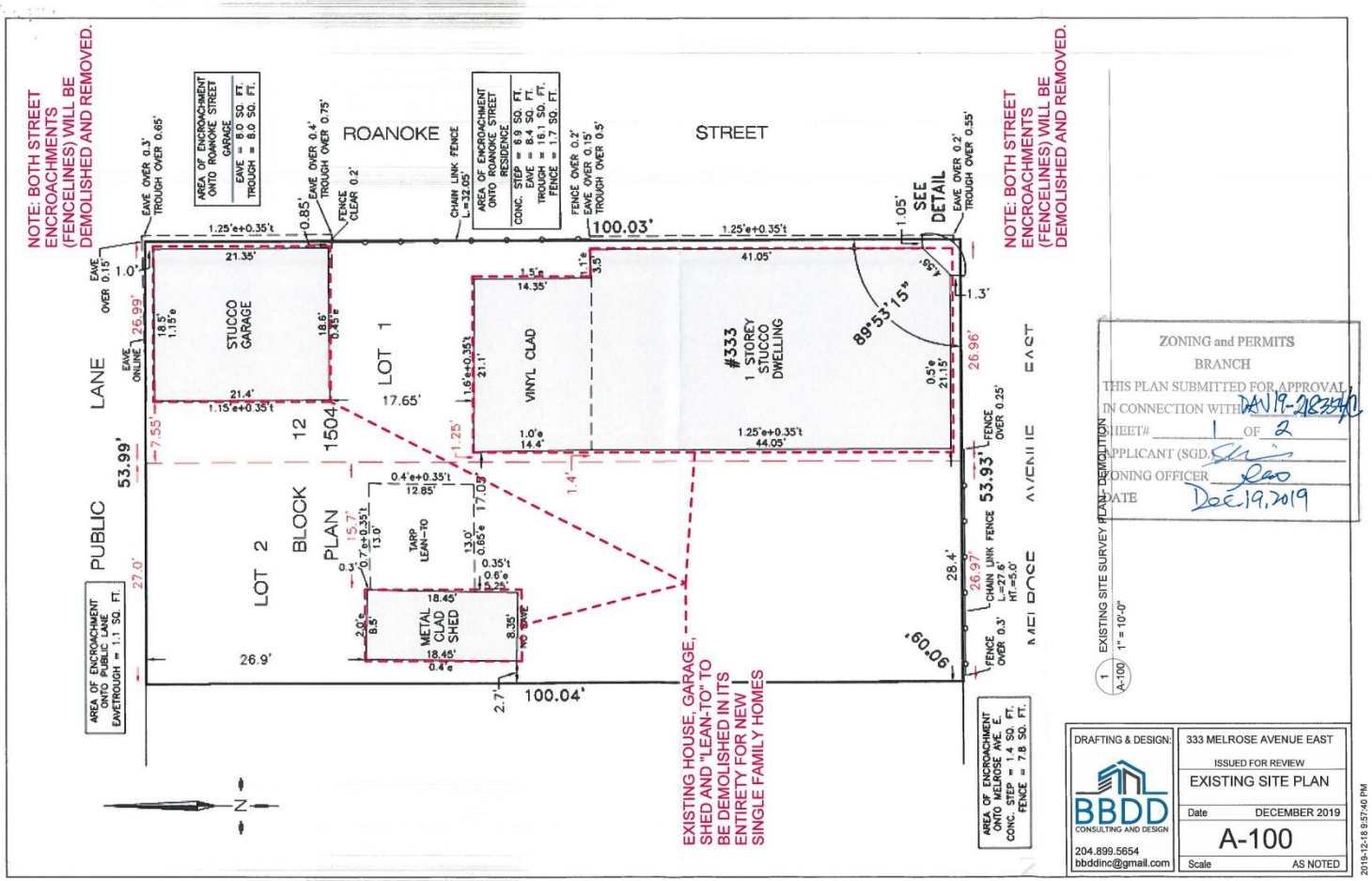
WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

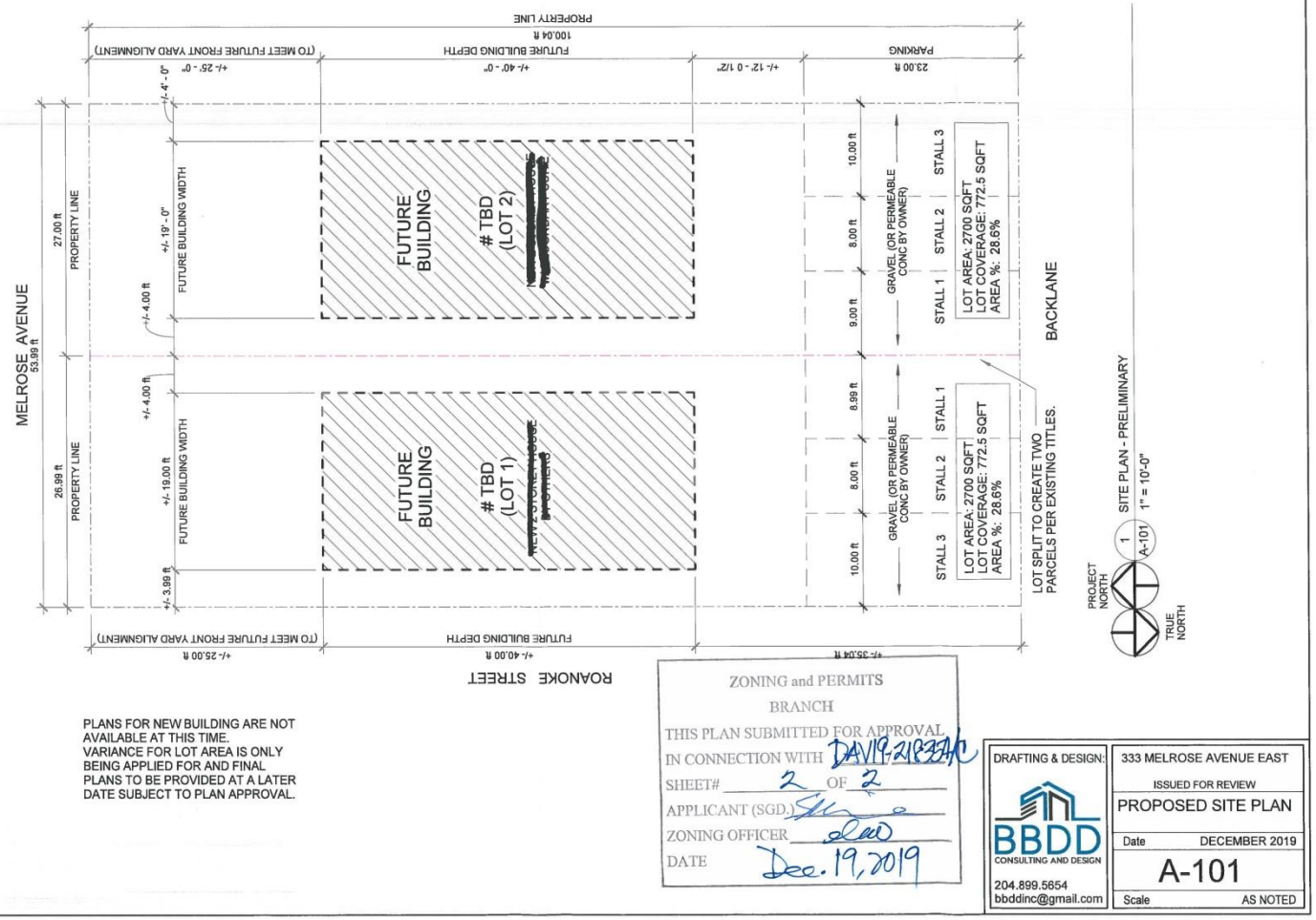
The proposed variances comply with the Winnipeg Climate Action Plan because the proposed development would increase the residential density of an established neighbourhood.

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Urban Planning and Design
Prepared by:	Glen Doney
Date:	January 13, 2020
File No.	DAV 19-218354C

Exhibit “8” referred to in File DAV 218354/2019C





PLANS FOR NEW BUILDING ARE NOT AVAILABLE AT THIS TIME.
VARIANCE FOR LOT AREA IS ONLY BEING APPLIED FOR AND FINAL PLANS TO BE PROVIDED AT A LATER DATE SUBJECT TO PLAN APPROVAL.

ZONING and PERMITS
BRANCH
THIS PLAN SUBMITTED FOR APPROVAL
IN CONNECTION WITH DAV19-218374C
SHEET# 2 OF 2
APPLICANT (SGD.)
ZONING OFFICER
DATE Dec. 19, 2019

DRAFTING & DESIGN:
BBDD CONSULTING AND DESIGN
204.899.5654
bbddinc@gmail.com

333 MELROSE AVENUE EAST
ISSUED FOR REVIEW
PROPOSED SITE PLAN
Date DECEMBER 2019
A-101
Scale AS NOTED

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