Agenda – Council – January 30, 2020

Report – Executive Policy Committee – January 21, 2020

Item No. 4 Zoning Agreement Amendment – 39 Shorecrest Drive (River Heights-Fort Garry Ward) File ZAA 7/2019

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 21, 2020, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submitted the following to Council:

1. That Zoning Agreement No. 39/79 dated September 29, 1981 (the "Zoning Agreement"), registered at the Winnipeg Land Titles Office as Caveat No. 81/73452, be amended to permit the following rear yard setbacks, measured from the rear lot line, on the property located at 39 Shore crest Drive:

    A. Minimum 19.8 metres (60 feet) to any principal building.

    B. Minimum 12.8 metres (42 feet) to any detached accessory building.

    C. Minimum 8.5 metres (28 feet) to any temporary structure.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – January 21, 2020

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 21, 2020, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 7, 2020, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

PUBLIC HEARING SUMMARY

File: ZAA 7/2019

Before: City Centre Community Committee
Councillor Gilroy, Chairperson
Councillor Orlikow
Councillor Rollins

Public Hearing: January 7, 2020
Council Building, 510 Main Street

Applicant: Tower Engineering Group (Aaron Contant)

Subject:



Premises Affected: 39 Shorecrest Drive

For submission to: Executive Policy Committee

Prepared by: Kate McMillan, Senior Committee Clerk
City Centre Community Committee

Report date: January 8, 2020

Community Committee Recommendation:

On January 7, 2020, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That Zoning Agreement No. 39/79 dated September 29, 1981 (the "Zoning Agreement"), registered at the Winnipeg Land Titles Office as Caveat No. 81/73452, be amended to permit the following rear yard setbacks, measured from the rear lot line, on the property located at 39 Shore crest Drive:

    A. Minimum 19.8 metres (60 feet) to any principal building

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2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

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4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

The City Centre Community Committee provided the following supporting reasons for its recommendation:

1. Both neighbours are supportive of the amendment, no one is in opposition and the process is being done correctly.

Exhibits Filed:

1. Application dated October 16, 2019
2. Notification of Public Hearing dated November 19, 2019
3. Manitoba Status of Title 1173840/1
4. Letter of authorization dated August 12, 2019 from Bernice Kleysen and Hubert Kleysen to Aaron Contant
5. Caveat 81-73452
6. Plans (3 pages)
7. Report from the Urban Planning Division dated December 20, 2019
8. Inspection Report
9. Revised Report from the Urban Planning Division dated January 3, 2020
10. Recording of Representations

REPRESENTATIONS:

In Support:

Jack Abiusi

In Opposition:

Nil

For Information:

Nil

For the City:

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

Exhibit " 9 " referred to in File ZAA 7/2019

ADMINISTRATIVE REPORT--Revised

Title: ZAA 7/19 – 39 Shorecrest Dr.

Issue: For consideration at the Public Hearing for a Zoning Agreement Amendment to amend caveat 81-73452/1 to enable the construction of screen room addition.

Critical Path: City Centre Community Committee - Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Harris	N/A	N/A	

RECOMMENDATIONS

1. That Zoning Agreement No. 39/79 dated September 29, 1981 (the "Zoning Agreement"), registered at the Winnipeg Land Titles Office as Caveat No. 81/73452, be amended to permit the following rear yard setbacks, measured from the rear lot line, on the property located at 39 Shore crest Drive:

   (a) minimum 19.8 metres (60 feet) to any principal building;

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   (c) Minimum 8.5 metres (28 feet) to any temporary structure.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

4. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

- The applicant is proposing to modify the existing zoning agreement which regulates minimum rear yard setback to a retention pond.
- Modification of caveats on a Land Title requires a Zoning Agreement Amendment application.
- Approval of a Zoning Agreement Amendment application requires a public hearing as per the Development Procedures By-law and The City of Winnipeg Charter.
- The Report is being submitted for the Committee'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 subject Zoning Agreement will be **amended** and the caveat will be modified.

CONSULTATION

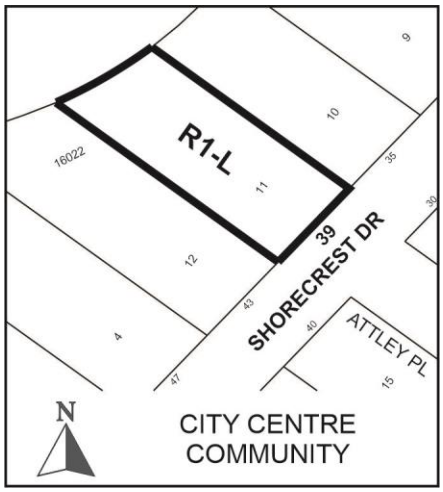
In preparing this report there was consultation with: N/A.

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared By	Dylan Harris, MCP
Date:	January 3, 2020
File No.	ZAA 7/2019

APPENDIX 'A'

DATE:	December 17, 2019
FILE:	**ZAA 7/2019**
RELATED FILES:	DASZ 39/79
COMMUNITY:	City Centre
NEIGHBOURHOOD	1.634 Linden Woods
SUBJECT:	For consideration at the Public Hearing to modify caveat 81/73452/1 associated with Files DASZ 39/79
LOCATION:	39 Shorecrest Dr.
LEGAL DESCRIPTION:	LOT 11 Block 1 Plan 16022 WLTO, in OTM lots 48 to 51 Parish of St. Boniface.



APPLICANT:	Aaron Contant. (Tower Engineering Group) 1-1140 Waverly St. WPG, MB
Owner:	Bernise Doris Kleysen 39 Shorecrest Dr. Winnipeg, MB R3P 0Y1

RECOMMENDATION: Approval

SITE DESCRIPTION:

- The subject property is located on the west side of Shorecrest Dr. in the Linden Woods neighbourhood of the River Heights – Fort Garry ward.
- The site is located in a Recent Community as designated in the *Complete Communities Direction Strategy.*
- The property is zoned “R1-L” Residential Single Family Large district and is 15 346 sq. in area.
- A 3793 sq. ft. single family dwelling is currently located on the subject property.



Figure 1: Location of the subject property and surrounding area (2018)

North: Single-family residential uses zoned “R1-L” Residential Single Family Large district.

South: Single-family residential uses zoned “R1-L” Residential Single Family Large district.

East: Shorecrest Dr. then Attley Pl. and single family residential uses zoned “R1-L” Residential Single Family Large district

West: City of Winnipeg owned storm water retention pond which serves the Linden Woods Area, zoned “PR1” Parks and Recreation Neighbourhood district.

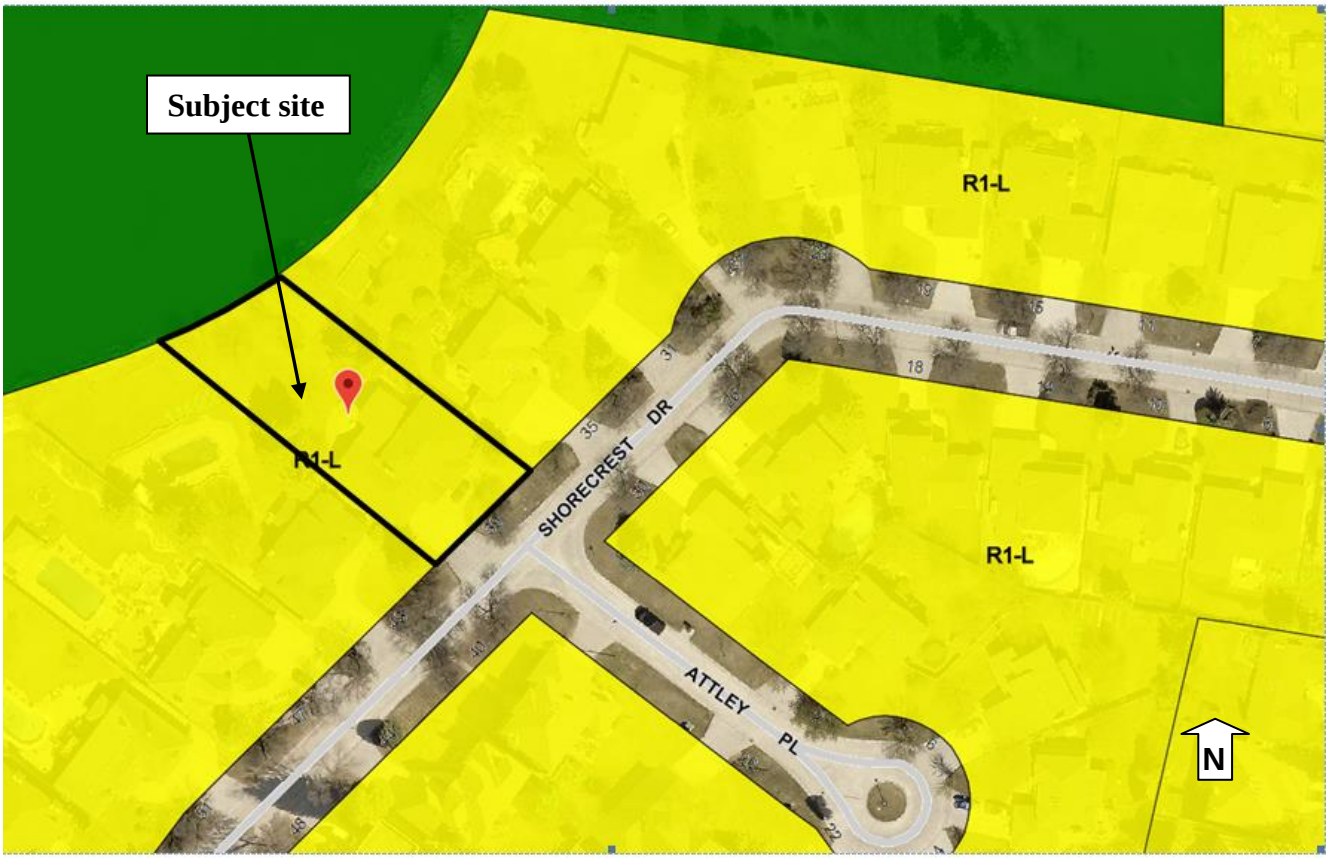


Figure 2: Zoning of subject property and surrounding neighbourhood

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- November 7, 1979 the Assiniboine Park / Fort Garry Community Committee approved a subdivision and rezoning application (DASZ 39/79) to enable the residential subdivision known today as Lindenwoods.

- The approval was subject to a zoning agreement which stipulated minimum rear yard setbacks for buildings located on lots which back onto a retention pond.

- Zoning agreements are registered on land title in the form of a caveat. Any changes to these caveats require a Zoning Agreement Amendment (ZAA) application to be approved by Council.
- Condition 2. of the zoning agreement in DASZ 39/79 states

> *"All lots within the land which abut or will abut the storm water retention lake to be constructed therein shall have the following minimum rear yards measured from the rear lot line:*
>
> - *Minimum 25.9 metres (85 feet) to any principal building*
> - *Minimum 12.8 metres (42 feet) to any detached accessory building*
> - *Minimum 8.5 metres (28 feet) to any temporary structure*

- The applicant wishes to construct a screen room addition at the rear of the existing single-family dwelling (the principal dwelling).

- The proposed addition would result in a proposed rear yard of **60 feet** as opposed to the required **85 feet** stipulated in the above noted Zoning Agreement.

ANALYSIS AND ISSUES

Complete Communities Direction Strategy

- The subject property is located within a *Recent Community* as designated in the *Complete Communities Direction Strategy.*
- *Recent Communities* are primarily residential areas with the following characteristics:
    - Dispersed, low to medium-density development patterns.
    - Curvilinear local road pattern with many cul-de-sacs.
    - Typically planned after 1950.
- Linden Woods is specifically listed as an example of a *Recent Community* in section 04-2 Recent Communities in the *Complete Communities Direction Strategy.*
- There is one policy which specifically applies to *Recent Communities.* Areas of Stability-Recent Communities Direction 1 States:
    - Within recent communities, intense and diverse development will be encouraged in centres and corridors.
        - Improve the sustainability of recent residential neighbourhoods by promoting better walking, cycling and transit access to retail, employment and community facilities.

The subject ZAA application to enable an addition to an existing dwelling at 39 Shorecrest Dr. will not alter the character of development in this Recent Community and is thereby consistent with the vision for *Recent Communities* as described in the *Complete Communities Direction Strategy.*

Winnipeg Zoning By-Law 200/06

- In some cases, Zoning By-law 200/2006 regulates setbacks to retention ponds in the “special yards” section of the by-law.
- The Lindenwoods neighbourhood is not regulated by a “special yard” setback to a retention pond in the Zoning By-law. The proposed application does not require a variance.
- When applicants proposing changes to any yard setback onto a retention pond the Urban Planning Division consults with the Water and Waste Department to determine the suitability of the proposed yard setback.

Previous Zoning Agreement Amendment

- On June 17, 1987, ZAA 12-87 was undertaken to amend the conditions of DASZ 39/79 to enable a reduced rear yard setback of **79.8 feet** to a principal building instead of **85 feet** at 73 Shorecrest Dr. (Lot 16, Block 1, Plan 16022, WLTO in OTM Lots 48 to 51 Parish of Saint Boniface (ZAA 12-87).

Letters of support for ZAA 7/19 at 39 Shorecrest Dr.

- As part of the subject ZAA application, the applicant has submitted signatures of support from both immediately adjacent neighbours at 35 Shorecrest Dr. and 43 Shorecrest Dr.

Consultation with Water and Waste

- Although ZAA applications are analyzed by the Urban Planning Division due to their implementation through zoning agreements, the setbacks listed in the subject Zoning Agreement are to meet requirements of the Water and Waste Department associated with function of a storm water retention pond.
- A building permit to enable the proposed addition to the rear of the property at 39 Shorecrest Dr. was reviewed and approved by the Water and Waste Department in July of 2019.
- During building permit review, it was noticed the property at 39 Shorecrest Dr. was subject to a zoning agreement requiring a rear yard setback of 85 feet to a principal building.
- The Urban Planning Division contacted Water and Waste to confirm their support for the proposed building addition.
- On December 12, 2019, the Water and Waste Department confirmed they had reviewed a building permit application to enable the proposed addition and had **no objections** to the proposed rear yard setback.

SUMMARY

- The subject property was successfully rezoned in 1979 subject to a zoning agreement which established minimum rear yards for properties backing onto a retention pond.
- A successful ZAA to reduce the required rear yard by five (5) feet was approved in 1987 (ZAA 12-87).
- The applicant wishes to build a screen room at the rear of the property resulting in a rear yard of approximately 65 feet.
- The Water and Waste Department has reviewed this request for reduced rear yard and has **no objections**.
- The applicant has obtained signatures of support from both adjacent neighbours for their proposed screen room addition.
- The Urban Planning Division is **supportive** of the requested ZAA as recommended below.

RECOMMENDATIONS

That Zoning Agreement Caveat 81-73452/1 under File DASZ 39/79 **be amended to read**:

1.) That Zoning Agreement No. 39/79 dated September 29, 1981 (the “Zoning Agreement”), registered at the Winnipeg Land Titles Office as Caveat No. 81/73452, be amended to permit the following rear yard setbacks, measured from the rear lot line, on the property located at 39 Shore crest Drive:

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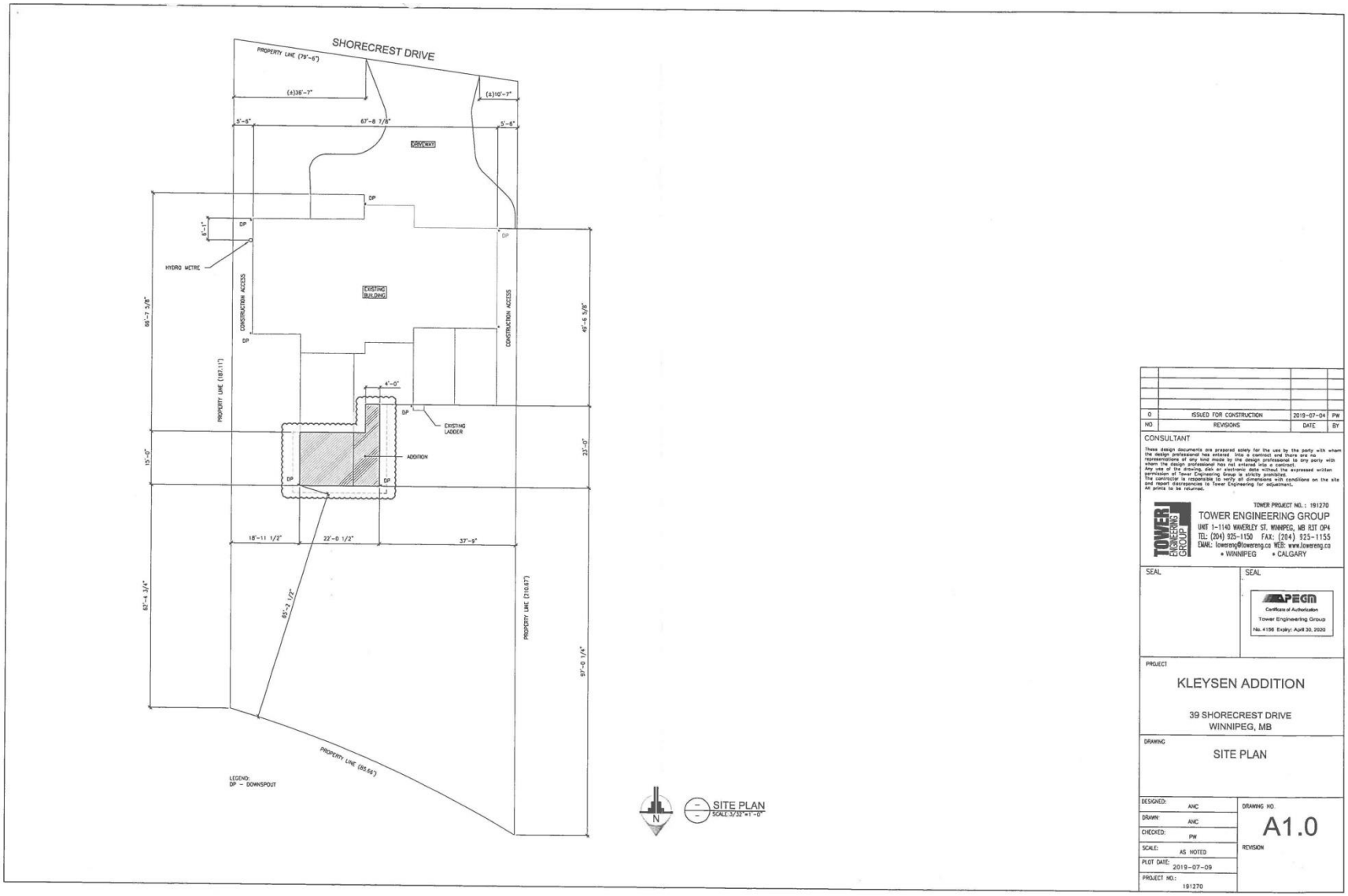
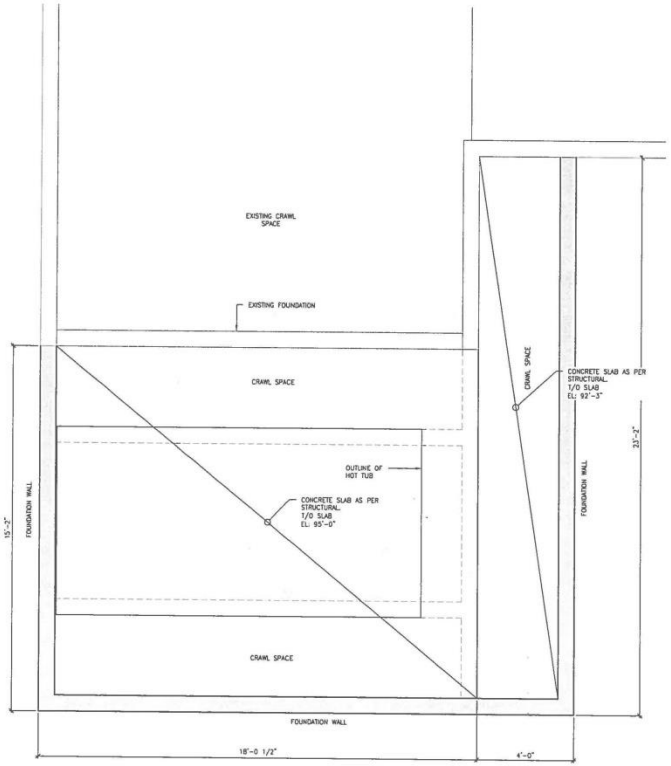
4.) That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning Division
Report Prepared By: Dylan Harris, MCP
PPD File # ZAA 7/19

Exhibit " 6 " referred to in File ZAA 7/2019





1 A1.1 BASEMENT PLAN
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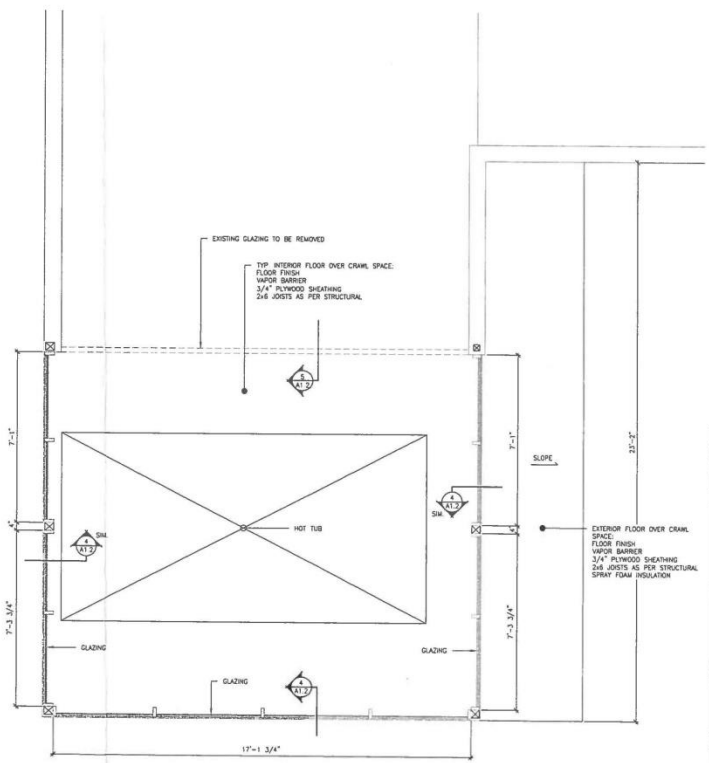

2 A1.1 MAIN FLOOR PLAN
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NO.	REVISIONS	DATE	BY
0	ISSUED FOR CONSTRUCTION	2019-07-04	PW

CONSULTANT

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TOWER ENGINEERING GROUP
UNIT 1-1140 WAVERLEY ST. WINNIPEG, MB R3T 0P4
TEL: (204) 925-1150 FAX: (204) 925-1155
EMAIL: towereng@towereng.ca WEB: www.towereng.ca
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SEAL

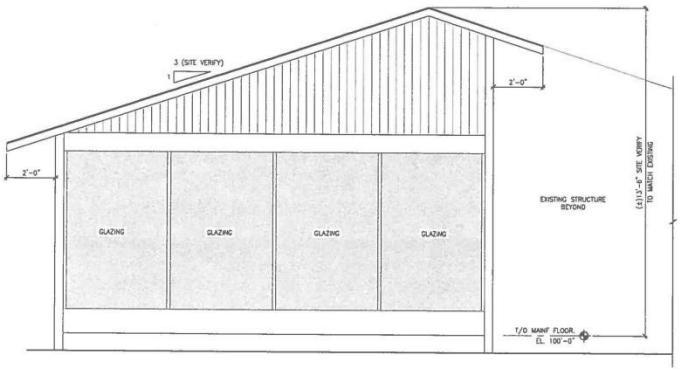
APEGM
Certificate of Authorization
Tower Engineering Group
No. 4156 Expiry: April 30, 2020

PROJECT
KLEYSEN ADDITION
39 SHORECREST DRIVE
WINNIPEG, MB

DRAWING
FLOOR PLANS

DESIGNED:	ANC
DRAWN:	ANC
CHECKED:	PW
SCALE:	AS NOTED
PLOT DATE:	2019-07-09
PROJECT NO.:	191270

DRAWING NO.
A1.1
REVISION



1 A1.2 NORTH ELEVATION
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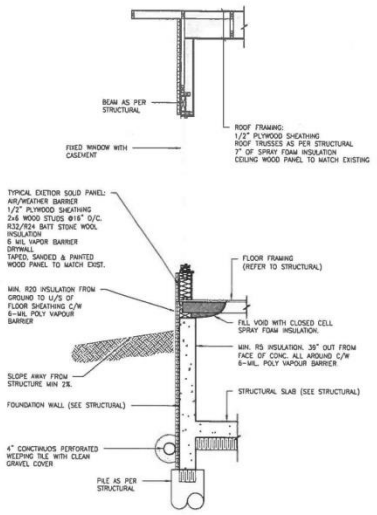

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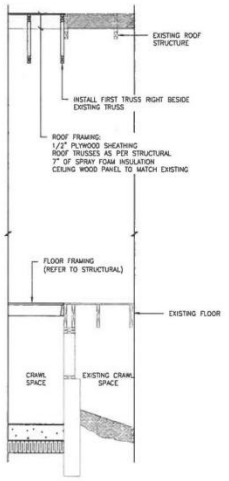

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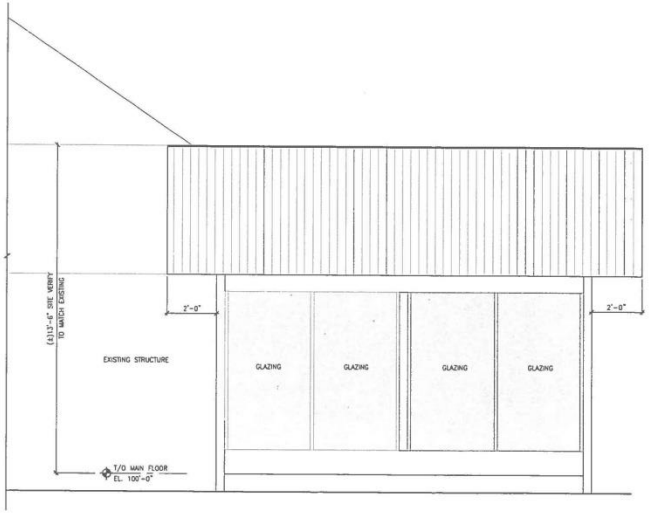

2 A1.2 EAST ELEVATION
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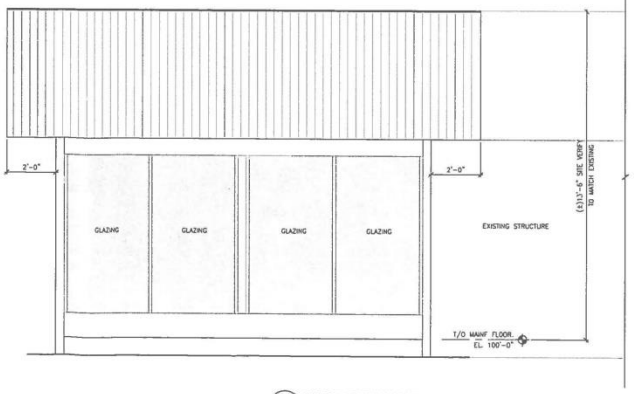

3 A1.2 WEST ELEVATION
SCALE:1/2"=1'-0"

NO.	REVISIONS	DATE	BY
0	ISSUED FOR CONSTRUCTION	2019-07-04	PW

CONSULTANT

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APEGM
Certificate of Authorization
Tower Engineering Group
No. 4156 Expiry: April 30, 2020

PROJECT
KLEYSEN ADDITION
39 SHORECREST DRIVE
WINNIPEG, MB

DRAWING
ELEVATIONS & WALL SECTIONS

DESIGNED:	ANC
DRAWN:	ANC
CHECKED:	PW
SCALE:	AS NOTED
PLOT DATE:	2019-07-09
PROJECT NO.:	191270

DRAWING NO.
A1.2
REVISION