Agenda – Council – January 30, 2020

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – January 6, 2020

Item No. 2 Zoning Agreement Amendment – West Side of Peguis Street, South of Almey Avenue – Lots 2 and 3 (Transcona Ward) File ZAA 5/2019 [c/r DAV 171558/2019D]

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 21, 2020, the Executive Policy Committee did not concur in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development, concurred in the recommendation of the East Kildonan-Transcona Community Committee, and submitted the following to Council:

1. That the application for zoning agreement amendment under File ZAA 5/2019 [c/r DAV 171558/2019D] be rejected.

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

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – January 6, 2020

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 21, 2020, the Executive Policy Committee did not concur in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development, concurred in the recommendation of the East Kildonan-Transcona Community Committee, and submitted the following to Council:

1. That the application for zoning agreement amendment under File ZAA 5/2019 [c/r DAV 171558/2019D] be rejected.

2. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

STANDING COMMITTEE RECOMMENDATION:

On January 6, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development did not concur in the recommendation of the East Kildonan-Transcona Community Committee, concurred in the recommendation of the Winnipeg Public Service, and submitted the following to the Executive Policy Committee and Council:

1. That Zoning Agreement under File DASZ 21/2017, as approved by Council on July 19, 2018, be amended as follows:

    A. That Clause 2.A.iii be deleted and the following substituted therefore:

        "That no more than 24 dwelling units shall be permitted."

    B. That Clause 2.A.iv be deleted and the following substituted therefore:

        "That the maximum building height shall be 40 feet."

    C. That Clauses 2.A.v, 2.A.vi, 2.A.x and 2.A.xi be deleted and the other clauses be renumbered accordingly.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 21/2017 as approved in aforesaid Recommendation 1.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – January 6, 2020

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION (continued):

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 12, 2019, the East Kildonan-Transcona Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development that the application for zoning agreement amendment under File ZAA 5/2019 [c/r DAV 171558/2019D] be rejected.

PUBLIC HEARING SUMMARY

File: ZAA 5/2019

Before: East Kildonan-Transcona Community Committee
Councillor Browaty, Chairperson
Councillor Nason
Councillor Schreyer

Public Hearing: November 12, 2019
Council Building, 510 Main Street

Applicant: Ross Mitchell, Sison Blackburn Consulting Inc.

Subject:



Premises Affected: West Side of Peguis Street, South of Almey Avenue, Lots 2 and 3

For submission to: The Standing Policy Committee on Property and Development, Heritage and Downtown Development

Prepared by: Tamara Pomanski, Committee Clerk
East Kildonan-Transcona Community Committee

Report date: November 13, 2019

Community Committee Recommendation:

The East Kildonan-Transcona Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development that the application for zoning agreement amendment under File ZAA 5/2019 [c/r DAV 171558/2019D] be rejected.

The East Kildonan-Transcona Community Committee provided the following supporting reasons for its recommendation:

1. Many people I've heard in the short time I've been here, which is a year and about four days, that City Council isn't listening to the community and we rubber stamp things. I've learned far more about the Transcona West Area Plan than I care to know, primarily just the area north of this.

2. We've had several other situations come with regards to parking in the area. I am very concerned in that area. When someone comes they are going to go higher they are going to go further back. We had good representation tonight with regards to the community. I'm concerned this is not the minimum changes to remove injurious effects on the adjacent properties in the area in question.

3. I do understand the Applicant is doing his best to recoup his investment. He is challenged in the area. It's been a long drawn out process. I am trying not to cause him challenges but I also want to make sure that the legacy that is left in the wake of this property development is something that our community can live with and that future developments are not set as an example, we did it here so we can do it there. So that is part in parcel the reason why I am taking the action of the recommendation forward this evening.

Exhibits Filed:

1. Application dated September 25, 2019
2. Notification of Public Hearing dated October 1, 2019
3. Manitoba Status of Title 3000964/1
4. Letter of authorization dated July 18, 2019 from Zekarius Worku, Zekar Holdings Ltd., to John van Leeuwen and/or Ross Mitchell
5. Surveyor's Building Location Certificate and sketch dated February 7, 1977
6. Site Plan and Floor Plans (6 pages)
7. Report from the Urban Planning Division dated October 29, 2019
8. Inspection Report
9. Communication dated November 11, 2019, from Troy Hildebrand and Melody Rogan in opposition to the application
10. Communication dated November 12, 2019, from Dale Pawloski in opposition to the application
11. Communication dated November 12, 2019, from Anthony Proske in opposition to the application
12. Recording of Representations
13. Presentation/Photos in support of the application submitted by Ross Mitchell at the public hearing
14. Letters in support of the application submitted by Zekarius Worku at the public hearing
15. Presentation in opposition to the application submitted by Mary Gaudio at the public hearing
16. Presentation in opposition to the application submitted by Judith Burym at the public hearing
17. Presentation in opposition to the application submitted by Tonina Paulic at the public hearing

REPRESENTATIONS:

In Support:

Smon Goitom
John van Leeuwen
Ross Mitchell
Philip Sarna
Aklilu Teferi
Zack Worku
Chris Yaren

In Opposition:

Judith Burym
Stan Burym
Ian Hailstone
Susie Hailstone
Troy Hildebrand
Mary Gaudio
Rosina Gaudio
Magdalene Gollub
Lovro Paulic
Tonina Paulic
Dale Pawloski
Anthony Proske
Peter and Judy Pshednovak
Fred Rakowski
Melody Rogan
Ron Snider
Scott Thurston
Angela Tuck
Clifford Tuck

For Information:

Nil

For the City:

G. Doney, Senior Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 5/2019

ADMINISTRATIVE REPORT

Title: ZAA 5/2019 – West Side of Peguis St., South of Almey Ave.

Issue: Proposed Zoning Agreement Amendment to Accommodate a Proposed Multi-Family Dwelling and an Accessory Parking Area

Critical Path: East Kildonan – Transcona Community Committee → Standing Policy Committee on Property and Development, Heritage and Downtown Development → Executive Policy Committee → Council as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*

AUTHORIZATION

Author	Department Head	CFO	CAO
Glen Doney, RPP	n/a	n/a	

RECOMMENDATIONS

1. That Zoning Agreement under File DASZ 21/2017, as approved by Council on July 19, 2018, be amended as follows:

   A. That Clause 2.A.iii be deleted and the following substituted therefore:
   That no more than 24 dwelling units shall be permitted.

   B. That Clause 2.A.iv be deleted and the following substituted therefore:
   That the maximum building height shall be 40 feet.

   C. That Clauses 2.A.v, 2.A.vi, 2.A.x and 2.A.xi be deleted and the other clauses be renumbered accordingly.

2. That the Director of Legal Services and City Solicitor be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 21/2017 as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of *The City of Winnipeg Charter.*

REASONS FOR REPORT

This report is required because an application to amend a zoning agreement requires a public hearing as per *Development Procedures By-law* and *The City of Winnipeg Charter.*

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning and Design Division are concurred in, and an associated variance application (DAV 19-171558D) is approved, the proposal can proceed.

HISTORY

An application to consolidate the subject site into one lot and to rezone it to “RMF-L” Residential Multi-Family (Large) was submitted to the City under File DASZ 21/2017.

In the administrative report dated March 28, 2018, the Urban Planning Division recommended that DASZ 21/2017 be modified, by rezoning the subject site to “RMF-M” Residential Multi-Family (Medium) instead of “RMF-L”, and that it then be approved subject to several conditions, including a condition that a zoning agreement be entered into and that said agreement shall include the following conditions only:

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

   - *buildings*
   - *parking areas and driveways,*
   - *garbage enclosures,*
   - *fencing,*
   - *exterior lighting,*
   - *landscaping,*
   - *walkways and bikeways,*
   - *visitor bicycle parking facilities and*
   - *free-standing signage;*

   on the Owner’s Land (“Works”) to the City’s Director of Planning, Property and Development (“Director”) and the East Kildonan – Transcona Community Committee 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.

ii. That digital signage, mobile signs, and A-board signs shall not be permitted.

iii. That no more than 24 dwelling units shall be permitted.

iv. That the maximum building height shall be 42 feet.

On July 19, 2018, Council concurred in-part with the Urban Planning Division and approved the consolidation of the site into one lot and the rezoning of the site to "RMF-M" Residential Multi-Family (Medium) subject to several conditions, including a condition that a zoning agreement be entered into. The minutes of that decision state, in part:

2. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land shown on Schedule "B" of File DASZ 21/2017 dated March 28, 2018, to "RMF-M" Residential Multi-Family (Medium); subject to the following:

A. That the applicant enter into, execute and deliver a Zoning Agreement with the City pursuant to Section 240(1) of The City of Winnipeg Charter to include the following conditions:

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

- *buildings,*
- *parking areas and driveways,*
- *garbage enclosures,*
- *fencing,*
- *exterior lighting,*
- *landscaping,*
- *walkways and bikeways,*
- *visitor bicycle parking facilities and*
- *free-standing signage;*

on the Owner's Land ("Works") to the City's Director of Planning, Property and Development ("Director") and the East Kildonan – Transcona Community Committee 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.

ii. That digital signage, mobile signs, and A-board signs shall not be permitted.

iii. That no more than 20 dwelling units shall be permitted.

iv. That the maximum building height shall be 36 feet.

v. That the minimum parking ratio be 1.5 parking spaces per dwelling unit.

vi. That the proposed building, including any proposed balcony, shall be at least 20 feet from the rear lot line.

vii. That the north side yard to the proposed building shall be a minimum of 48 feet.

There is no Clause viii in the minutes of Council's decision. The numbering has not been corrected in order to avoid confusion.

ix. Motor-vehicle access to the site shall be located north of the principal building.

x. That the rear yard be fully landscaped beginning from the rear lot line to a minimum of 20 feet inwards.

xi. That the garbage enclosure be fully enclosed, including a roof.

xii. That in the event that the balconies are protruding on the west side of the building, full visual screens be installed on the north side of each balcony.

xiii. That fencing be installed on the north, south and west sides of the property.

Subsequently, the proponents submitted the application that is the subject of this report (ZAA 5/2019). This application proposes to amend the aforementioned Council-approved zoning agreement, created under DASZ 21/2017.

CONSULTATION

N/A

SUBMITTED BY

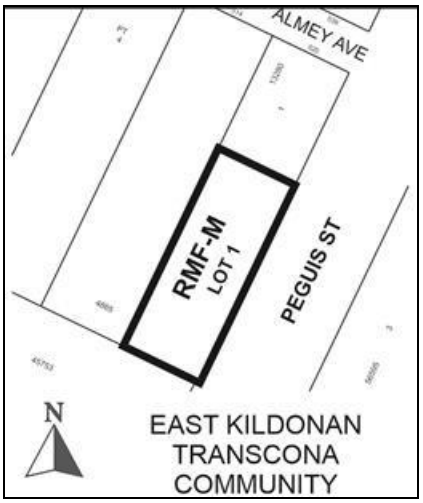
Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Glen Doney
Date:	October 29, 2019
File No.	ZAA 5/2019

Attachments

- **Appendix "A," Planning Discussion**

APPENDIX "A," PLANNING DISCUSSION

DATE:	October 29, 2019
FILE:	**ZAA 5/2019**
RELATED FILE:	DAV 19-171558D
COMMUNITY:	East Kildonan – Transcona
NEIGHBOURHOOD #:	4.417 (Peguis)
SUBJECT:	Proposed Zoning Agreement Amendment to Accommodate a Proposed Multi-Family Dwelling and an Accessory Parking Area
LOCATION:	west side of Peguis St., south of Almey Ave.
LEGAL DESCRIPTION:	Lots 1 & 2, Plan 13280 WLTO



APPLICANT:	John Van Leeuwen Architecture and Design (John Van Leeuwen) 63 ALBERT ST UNIT 211 Winnipeg, MB
OWNER:	Zekar Holdings Ltd.
RECOMMENDATION:	Approval as Modified

SITE DESCRIPTION

The subject site, identified on Figures 1, 2 and 3 of this attachment:

- Is immediately west of Peguis Street and 136 feet south of Almey Avenue;
- Is in the Peguis Neighbourhood and the Transcona Ward;
- Consists of two lots in a plan of subdivision;

- Is 22,302 square feet and 93 feet deep (measured perpendicular to Peguis Street);
- Is undeveloped;
- Is in a "RR5" Rural Residential 5 District;
- Is in a Recent Communities Policy Area of *OurWinnipeg* and *Complete Communities*; and
- Is in a Residential Mixed-Use policy area of the *Transcona West Area Structure Plan.*



Figure 1: Looking East, image derived from 2018 aerial photography

SURROUNDING LAND USE AND ZONING

Developments near the site are shown on Figure 1 and 2. Existing zoning is shown on Figure 3.

North: single-family dwelling on a property mostly in a "R1-L" Residential Single-Family (Large) District and partly in a "RR5" Rural Residential 5 District. The rear yard is abutting the subject site.

South: an undeveloped property in a "RR5" Rural Residential 5 District that is also in an area approved by Council to be rezoned to "C4" Commercial Regional under File DASZ 33/2013.

East: Peguis Street then a seven storey multi-family dwelling on a property in a "RMF-L" Residential Multi-Family Zoning District.

West: a single-family dwelling on a property partly in a "R1-L" Residential Single-Family (Large) District and mostly in a "RR5" Rural Residential 5 District. The rear yard is

approximately 280 feet deep. The most southerly 240 feet of their rear yard abuts the subject site. 2016 aerial photography shows that a garage and a fenced outside-storage area are in the southerly 240 feet of this property.

Also of note are:

- That the site is next to a paved path in the west boulevard of Peguis Street, which is part of a pedestrian and cyclist transportation network that connects the site to Regent Avenue West, Kildonan Place and other destinations;
- That Peguis Street is a collector road;
- That public transit stops are on Peguis Street near Almey Avenue;
- That the entrance to the principal building of the Kildonan Place Shopping Centre is a 630 metre walk from the site.

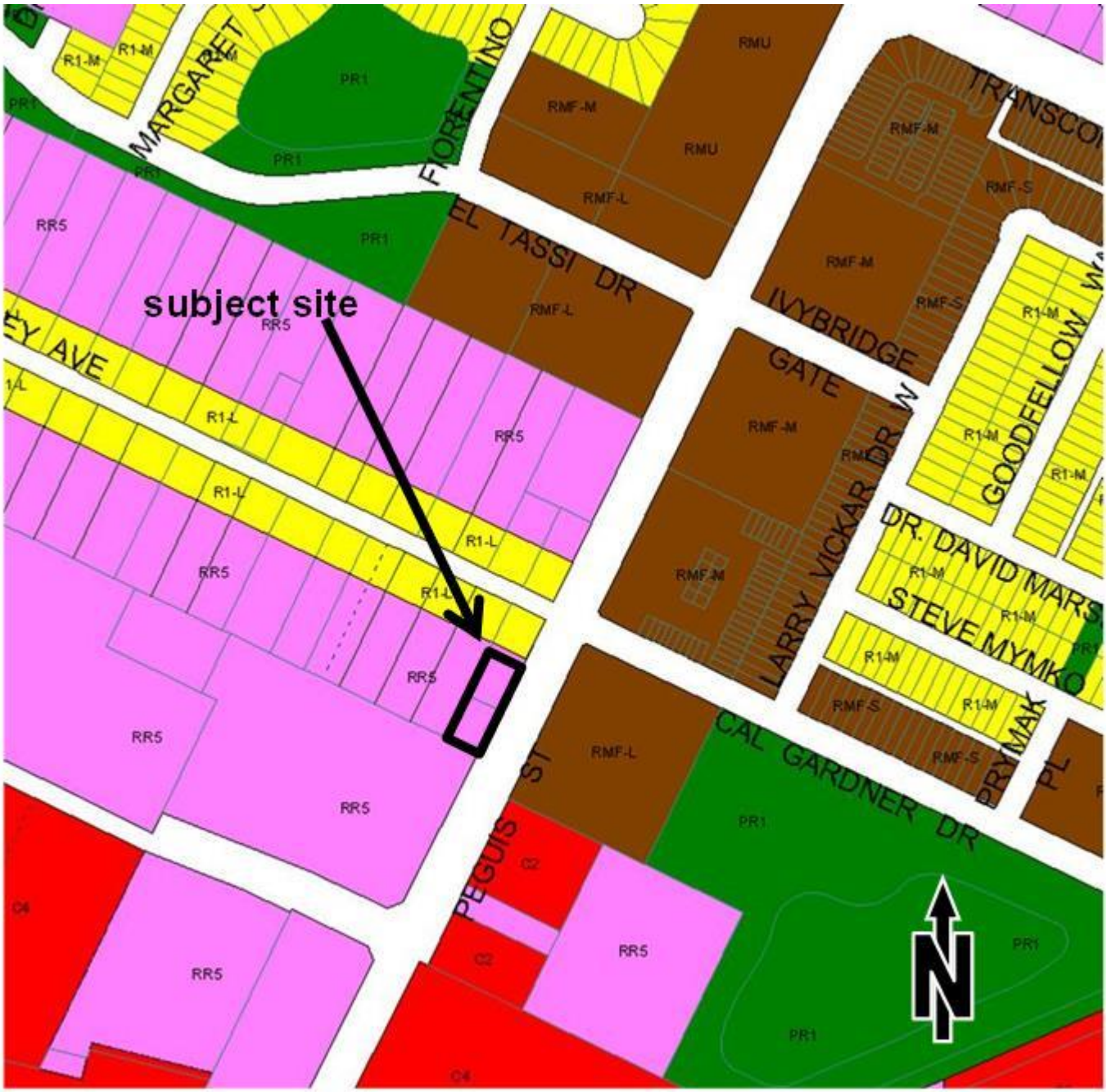


Figure 2: Existing Zoning and Lot Lines

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development includes:

- The construction of a multi-family dwelling that would
  - be three storeys, no more than 40 feet in height, setback from the front and rear site limits by 15 feet, setback from the north site limit by 48 feet and setback from the south site limit by 12 feet,
  - contain 24 dwelling units,
  - include 10 balconies facing west, 10 balconies facing Peguis Street (east) and four patios also facing Peguis Street;
- The construction of surface parking that would
  - be next to the site's western and northern limits, 10 feet from the site's eastern limit and approximately one foot from the site's southern limit,
  - include 32 parking spaces, at a parking ratio of 1.33 parking spaces per dwelling unit,
  - include a driveway to/from Peguis St. and
  - be partly under the second floor of the proposed multi-family dwelling;
- The construction of a six foot high opaque fence along the western site limit and the southern site limit and a four foot high opaque fence along the northern site limit;
- The construction of a garbage enclosure without a roof (which is consistent with Zoning By-law 200/2006);
- The establishment of lockable visitor bicycle parking spaces;
- The establishment of landscaping northwest, north, and east of, the proposed multi-family dwelling;
- The construction of two walkways that would connect two of the proposed building entrances to the paved path in Peguis Street.

In order for the proposal to proceed, the approved zoning agreement must be amended:

- By replacing Clause iii with the following:
  That no more than 24 dwelling units shall be permitted.
- By replacing Clause iv with the following:
  That the maximum building height shall be 40 feet.
- By deleting Clauses v, vi, x and xi

Variances are also required to accommodate the proposed development. The administrative report on this application (DAV 19-171558D) recommends approval.

ANALYSIS AND ISSUES

Zoning By-law 200/2006 requires 1.5 parking spaces per dwelling unit and a rear yard of 25 feet, both of which can be varied if the proposed variances comply with *The City of Winnipeg Charter.* Therefore, the clauses requiring 1.5 parking spaces per dwelling unit and requiring the proposed building, including its balconies, to be at least 20 feet from the rear lot line, are redundant and should be deleted.

OURWINNIPEG and COMPLETE COMMUNITIES

OurWinnipeg is the City's development plan. The Areas of Stability section of *OurWinnipeg* applies to the Recent Communities Policy Area. The Key Direction of this section states: "*Enhance the quality, diversity, completeness and sustainability of stable neighbourhoods and expand housing options for Winnipeg's changing population*."

Complete Communities is a "Direction Strategy" of *OurWinnipeg* that provides additional directions and policies on land use and development in the city. The Areas of Stability section of *Complete Communities* applies to the Recent Communities Policy Area. Direction 1 of this section contains policies that pertain to the proposal. These policies 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.*
>
> *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 amendment to permit 24 dwelling units instead of 20 complies with the aforementioned Key Direction and policies because:

- The number of dwelling units would increase by only 20 percent;
- More new dwelling units would be added to the neighbourhood;
- The number of accessory parking spaces per dwelling unit would be sufficient at 1.33 spaces per dwelling unit, taking into consideration
  - That public transit stops are near the site,
  - That the site is next to a paved path which is part of a pedestrian and cyclist transportation network that connects the site to Regent Avenue West, Kildonan Place and other destinations,
  - That Kildonan Place is only a 630 metre walk from the site;
- Motor-vehicle access and egress would be from a collector road (Peguis Street) only.

The proposed amendment to permit a building height of 40 feet instead of 36 complies with the aforementioned Key Direction and policies because:

- The allowable building height would increase by only 11 percent;

- The proposed building would be well-separated from existing dwellings because it would be 48 feet from the site's northern limit and separated from the residential development to the east by Peguis Street.

The proposed amendments to delete the requirement for landscaping in the rear yard and the requirement that a roof be over the garbage enclosure comply with the aforementioned Key Direction and policies because:

- Opaque fencing is proposed along the north, west and south site limits;
- The clause requiring the proposed development to be consistent with plans approved by the Community Committee and the Director of Planning, Property and Development, can be used to ensure the fence would be built to the maximum height limits of Zoning By-law 200/2006 and to ensure that lids would be on all outside garbage and recycling containers.

TRANSCONA WEST AREA STRUCTURE PLAN

As previously stated, the site is in a Residential Mixed-Use policy area of the *Transcona West Area Structure Plan.*

Subsection 5.4.2 of the *Transcona West Area Structure Plan* pertains to the Residential Mixed-Use policy area:

- Clause 1 states: "*a significant use of land… will incorporate low, medium and higher density residential uses*";
- Clause 4 states: "*The Residential Mixed-Use Area Concept should*
  - *provide for the compatible interface treatment with adjacent developments…,*
  - *contain a visually appealing site design and landscape treatment particularly when visible from roads with higher volumes of traffic…,*
  - *be suitably integrated with any residential, institutional, recreational and public uses within or adjacent to the site.*"

The proposed amendments to permit 24 dwelling units instead of 20 and a building height of 40 feet instead of 36 comply with Clause 1, which allows "*medium and higher density residential uses."*

The proposed amendments to delete the requirement for landscaping in the rear yard and the requirement that a roof be over the garbage enclosure comply with the Clause 4 because:

- Opaque fencing is proposed along the north, west and south site limits;
- The clause requiring the proposed development to be consistent with plans approved by the Community Committee and the Director of Planning, Property and Development, can be used to ensure the fence would be built to the maximum height limits of Zoning By-law 200/2006 and to ensure that lids would be on all outside garbage and recycling containers.

REASONS FOR THE RECOMMENDATIONS

As stated above, Zoning By-law 200/2006 requires 1.5 parking spaces per dwelling unit and a rear yard of 25 feet, both of which can be varied if the proposed variances comply with *The City*

of Winnipeg Charter. Therefore, the clauses requiring 1.5 parking spaces per dwelling unit and requiring the proposed building, including its balconies, to be at least 20 feet from the rear lot line, are redundant and should be deleted.

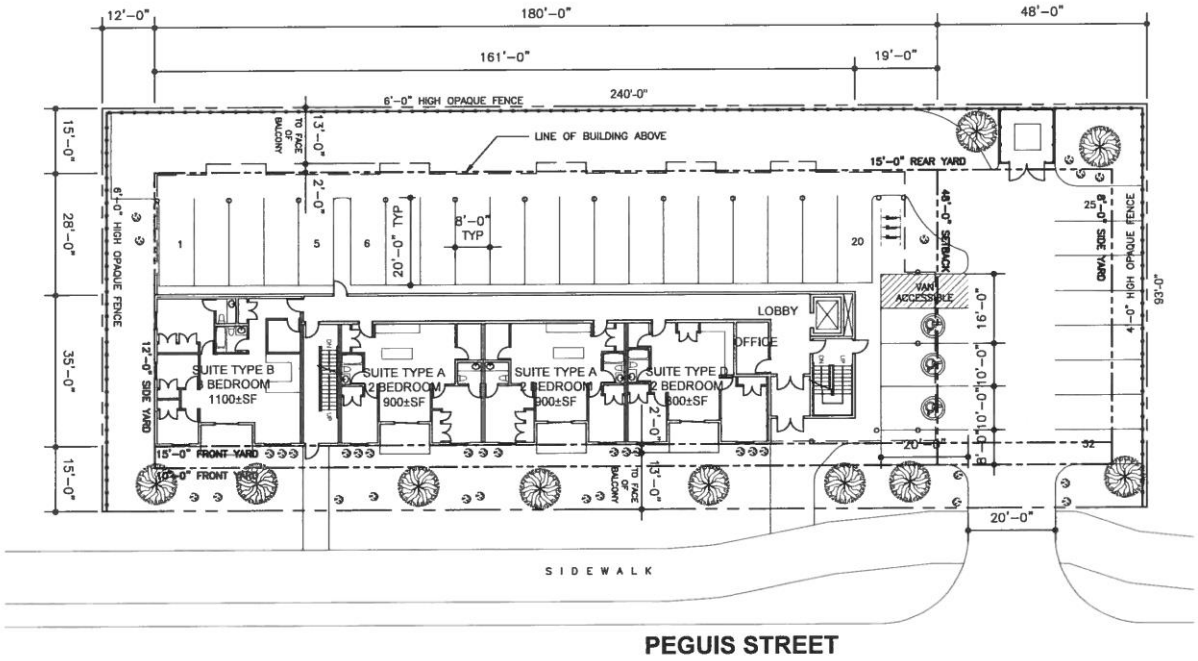
Also stated above, the other proposed amendments comply with a Key Direction of *OurWinnipeg* and with policies in *Complete Communities* and in the *Transcona West Area Structure Plan*, indicating that these proposed amendments are consistent with *OurWinnipeg*, *Complete Communities* and the *Transcona West Area Structure Plan*.

Therefore, the Urban Planning and Design Division recommends approval of all the proposed amendments.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by:
Glen Doney
PPD File #:
ZAA 5/2019

Exhibit “6” referred to in File ZAA 5/2019



SITE PLAN
1"=20'-0"

John van Leeuwen Architecture and Design

ZEKHAR HOLDINGS
WINFIELD ESTATES
PEGUIS STREET
WINNIPEG, MANITOBA

CLIENT REVIEW SIGNATURE:

ARCHITECTURAL SEAL

SHEET TITLE:

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ISSUE DATE: AUGUST 2, 2019

A-1.0

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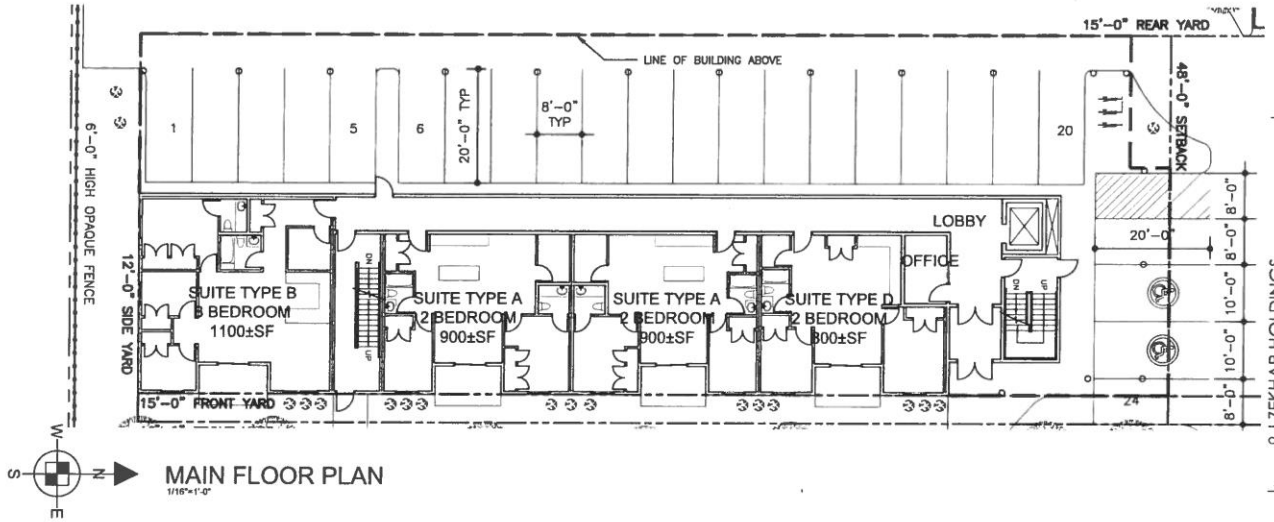

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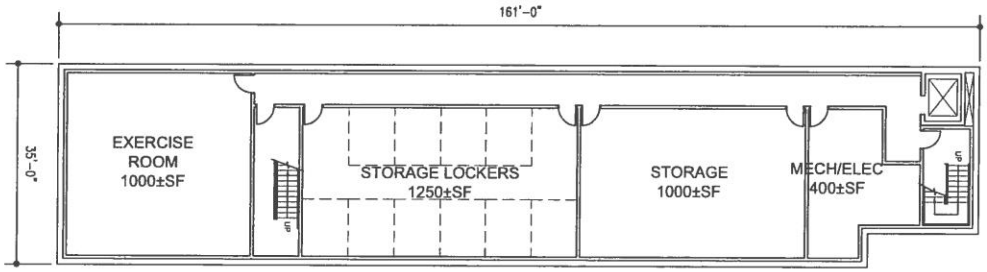

BASEMENT PLAN
1/16"=1'-0"

John van Leeuwen
Architecture and Design

ZEKHAR HOLDINGS
WINFIELD ESTATES
PEGUIS STREET
WINNIPEG, MANITOBA

CLIENT REVIEW SIGNATURE

ARCHITECTURAL SEAL

SHEET TITLE:

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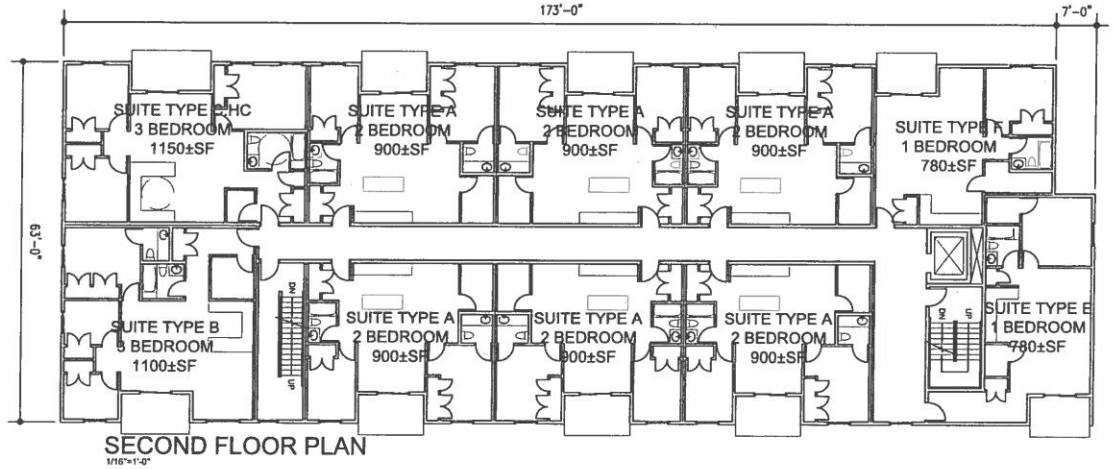

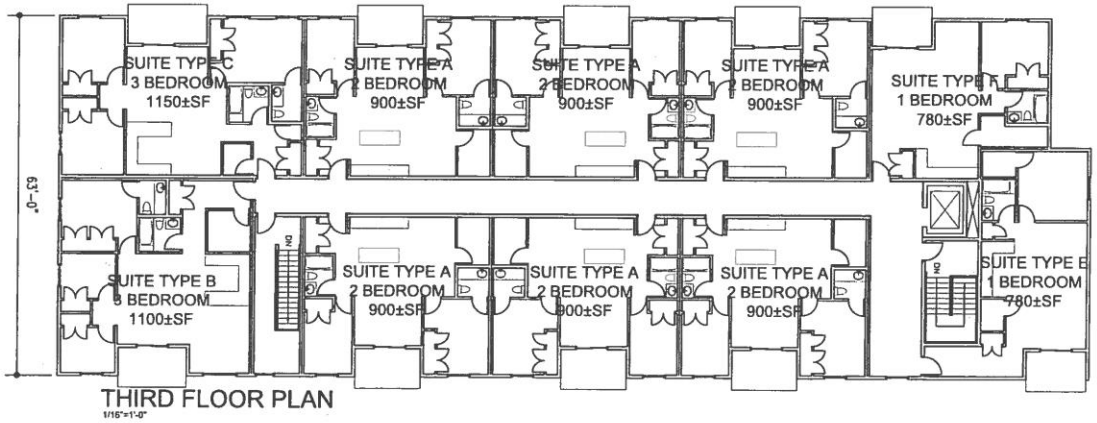

John van Leeuwen
Architecture and Design
#12-43 Albert Street Winnipeg, MB R3B 1G4
Ph: 204-504-7443

ZEKHAR HOLDINGS
WINFIELD ESTATES
PEGUIS STREET
WINNIPEG, MANITOBA

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SHEET TITLE:

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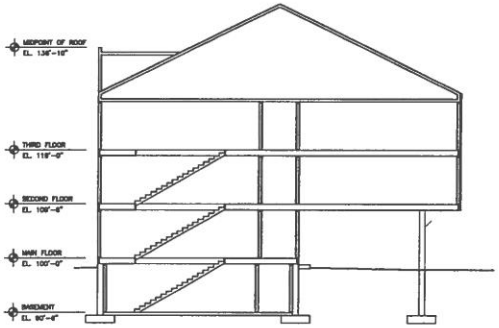

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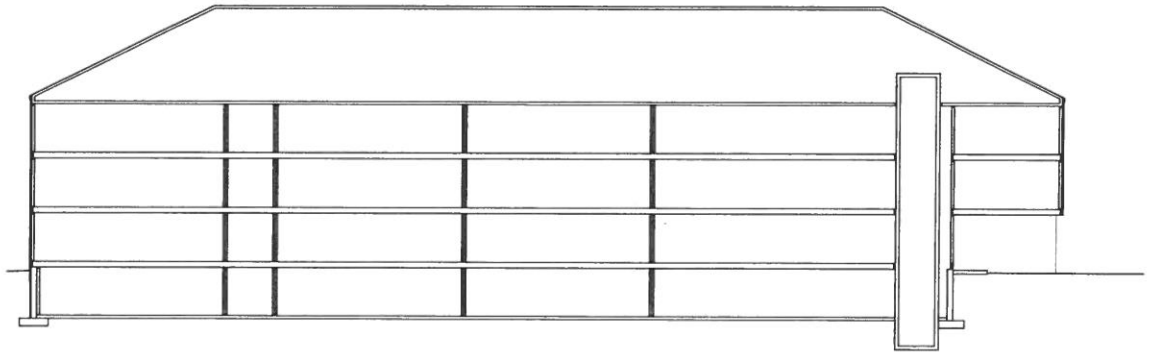

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John van Leeuwen
Architecture and Design

ZEKHAR HOLDINGS
WINFIELD ESTATES
PEGUIS STREET
WINNIPEG, MANITOBA

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SHEET TITLE:

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ISSUED FOR: REVIEW
ISSUE DATE: JULY 22, 2019

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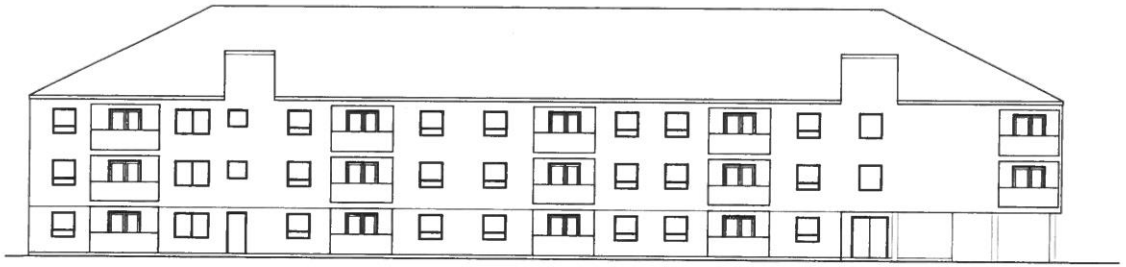
SD

DATE PLOTTED
7/22/19



NORTH ELEVATION
1/16"=1'-0"



EAST ELEVATION
1/16"=1'-0"

John van Leeuwen
Architecture and Design
412-43 Alfred Street Winnipeg, MB R3B 1G4
Ph: 204-504-7443

ZEKHAR HOLDINGS
WINFIELD ESTATES
PEGUIS STREET
WINNIPEG, MANITOBA

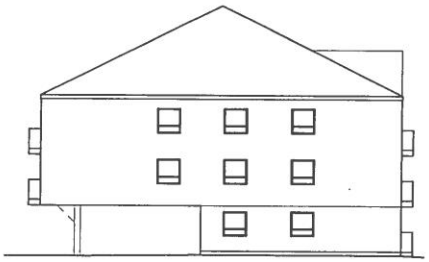
CLIENT REVIEW SIGNATURE:

ARCHITECTURAL SEAL

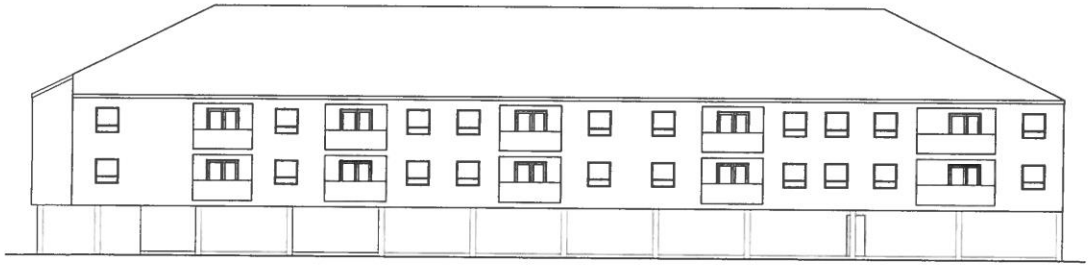
SHEET TITLE:

PROJECT NO: 2017162
DRAWN BY: JN
CHECKED BY: JV
SCALE: 1/16"=1'-0"
ISSUED FOR: REVIEW
ISSUE DATE: JULY 22, 2019

A-3.0
3D
DATE PLOTTED
7/22/19



SOUTH ELEVATION
1/16"=1'-0"



WEST ELEVATION
1/16"=1'-0"

John van Leeuwen
Architecture and Design

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WINFIELD ESTATES
PEGUIS STREET
WINNIPEG, MANITOBA

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