Minutes – Board of Adjustment – March 4, 2020

PUBLIC HEARINGS

Item No. 5 Variance – 1051 Royse Avenue
(River Heights-Fort Garry Ward)
File DAV 106580/2020C

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 zoning lots to permit lot areas of 2525 square feet (234.6 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 approaches shall be permitted.

3. That there shall be no new garages constructed attached to any principal dwelling on the subject properties.

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 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.

BOARD OF ADJUSTMENT DECISION (continued):

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.

8. That prior to the issuance of any permits, the applicant shall, at no expense to the City, remove the existing private approach to Royse Avenue on Lot 66, and restore the curb, boulevard, and sidewalk all as determined by and to the satisfaction of the Director of Public Works. The applicant shall make application to the Public Works Department to remove the private approach as per the Private Access By-law No. 49/200.

DECISION MAKING HISTORY:

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

Moved by Kara Bjornson,
That the report of the Winnipeg Public Service be taken as read.

Carried

Moved by Kara Bjornson,
That the receipt of public representations be concluded.

Carried

Moved by Kara Bjornson,
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 February 19, 2020.

Carried

DECISION MAKING HISTORY (continued):

Moved by Kara Bjornson,

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

Carried

Moved by Kara Bjornson,

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

Carried

THE CITY OF WINNIPEG
VARIANCE ORDER
BOARD OF ADJUSTMENT

DAV 106580/2020C

Before:	Board of Adjustment Bill Sawka, Chairperson Joel Remis Kara Bjornson
Hearing:	March 4, 2020 Council Building, 510 Main Street
Applicant:	Sheer Homes Inc. (Paul Singh)
Premises Affected:	1051 Royse Avenue
Legal Description:	LOT 65/66 BLOCK 3 PLAN 1378 31/33 STV, 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. 200/2006 for the establishment of two residential zoning lots to permit lot areas of 2,525 square feet (234.6 square metres) instead of 3,500 square feet (325.2 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 February 19, 2020.

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 two residential zoning lots to permit lot areas of 2525 square feet (234.6 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 approaches shall be permitted.

3. That there shall be no new garages constructed attached to any principal dwelling on the subject properties.

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 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.

8. That prior to the issuance of any permits, the applicant shall, at no expense to the City, remove the existing private approach to Royse Avenue on Lot 66, and restore the curb, boulevard, and sidewalk all as determined by and to the satisfaction of the Director of Public Works. The applicant shall make application to the Public Works Department to remove the private approach as per the Private Access By-law No. 49/200.

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

DATE OF ORDER: March 9, 2020

CERTIFIED BY:



T. Pomanski
Secretary to the Board

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 March 26, 2020;

[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(e) refer to Variance Order No. DAV 106580/2020C; 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:

Raj Lottey
Parminder Muhar
Paul Singh

In Opposition:

Lisa Armstrong

For Information:

Nil

For the City:

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

EXHIBITS FILED FOR DAV 106580/2020C

1. Application dated January 22, 2020
2. Notification of Public Hearing dated February 10, 2020
3. Manitoba Status of Title 2940733/1
4. Surveyor's Building Location Certificate and sketch dated February 28, 2018
5. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
6. Plan, Sheet 1 for File DAV 106580/2020C dated January 22, 2020
7. Report from the Urban Planning Division dated February 19, 2020
8. Inspection Report
9. Communication dated February 28, 2020 from Lisa Armstrong in opposition to the application

Exhibit "7" referred to in File DAV 106580/2020C

ADMINISTRATIVE REPORT

Title: DAV 20-106580\C – 1051 Royse Avenue

Issue: For consideration at the public hearing for a variance associated with the establishment of two residential zoning 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
Femi Ojo, MCIP, RPP	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. 200/2006 for the establishment of two residential zoning lots to permit lot areas of 2525 square feet (234.6 square metres) instead of 3500 square feet (325.2 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 approaches shall be permitted.
3) That, there shall be no new garages constructed attached to any principal dwelling on the subject properties.
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 facades 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 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.

8) That, prior to the issuance of any permits, the applicant shall, at no expense to the City, remove the existing private approach to Royse Avenue on Lot 66, and restore the curb, boulevard, and sidewalk all as determined by and to the satisfaction of the Director of Public Works. The applicant shall make application to the Public Works Department to remove the private approach as per the Private Access By-law No. 49/200.

REASON FOR THE REPORT

- The applicant intends to create two residential zoning lots from an existing parcel. A variance is being requested for reduced lot areas.
- 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 variance application will be approved.

FILE/APPLICANT DETAILS

FILE:	**DAV 20-106580\C**
RELATED FILES:	
COMMUNITY:	City Centre Committee
NEIGHBOURHOOD #:	1.605 (Maybank)
SUBJECT:	To vary the "R1-M" Dimensional Standards of Zoning By-Law No. 200/2006 for the establishment of two residential zoning lots to permit lot areas of 2525 square feet (234.6 square metres) instead of 3500 square feet (325.2 square metres).
LOCATION:	1051 Royse AVE
LEGAL DESCRIPTION:	LOT 65/66 BLOCK 3 PLAN 1378 31/33 STV

APPLICANT: Sheer Homes Inc.
1194 Jefferson Avenue
Winnipeg , Manitoba R2P 0C7

OWNER: Sheer Homes Inc.
1194 Jefferson Avenue
Winnipeg , Manitoba R2P 0C7

HISTORY

On June 13, 2018, the Board of Adjustment concurred in the recommendation of the Winnipeg Public Service, as amended and approved variance application DAV 18-131083/C to enable the establishment of two (2) 2,525 sq. ft. residential zoning lots at 1051 Royce Avenue.

On November 29, 2018, the Appeal Committee overturned the recommendation of the Board of Adjustment and allowed the appeal, rejecting variance application DAV 18-131083/C at 1051 Royce Avenue to establish two (2) residential zoning lots.

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 Royse Avenue in the Maybank neighborhood of the River Height-Fort Garry Ward.
- The subject site is made up of two (2) lots under plan subdivision (Lots 65 & 66). Currently on the property is a one 1/2 storey single-family dwelling that was built in 1938 and has a floor area of 1,020 square feet. The existing structure on site will be demolished.
- The property is 50 feet wide and +/- 101 feet deep; providing a total lot area of roughly 5,050 square feet.
- The subject property falls within the Area of Stability – Mature Community Policy Area of the *Complete Community Direction Strategies*. The property is zoned “R1-M” Residential Single-Family.

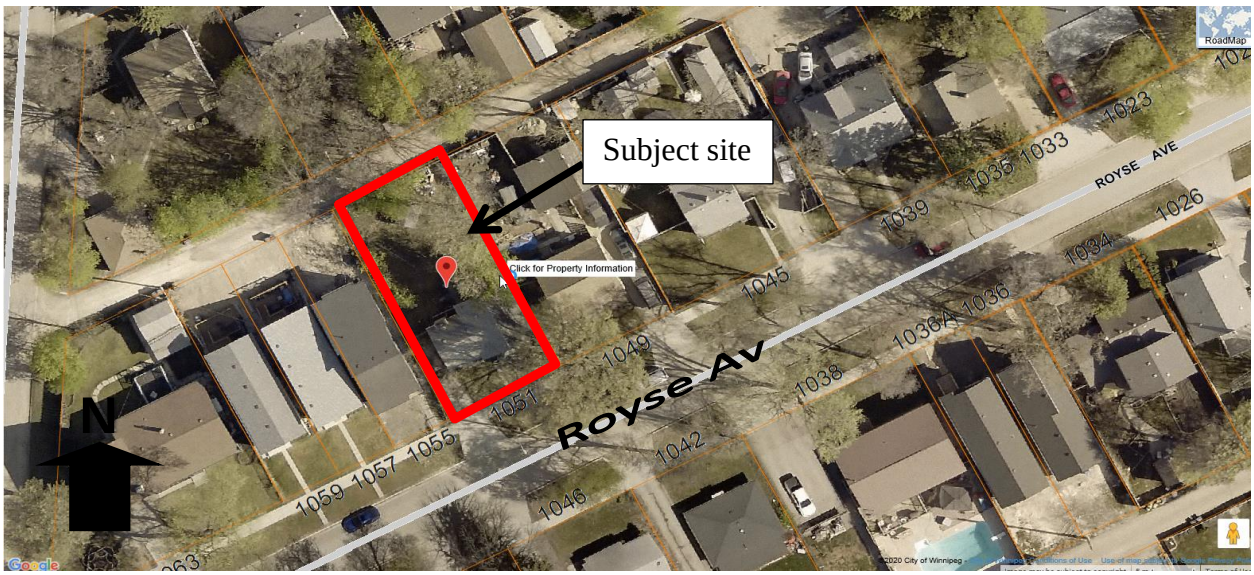

Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2018)*

SURROUNDING LAND USES & ZONING (See Figure 2)

North: Backlane, then residences zoned “R1-M” Residential Single-Family Medium.

South: Royse Avenue, then residences zoned “R1-M” Residential Single-Family Medium.

East: Residences zoned “R1-M” Residential Single-Family Medium.

West: Residences zoned “R1-M” Residential Single-Family Medium.

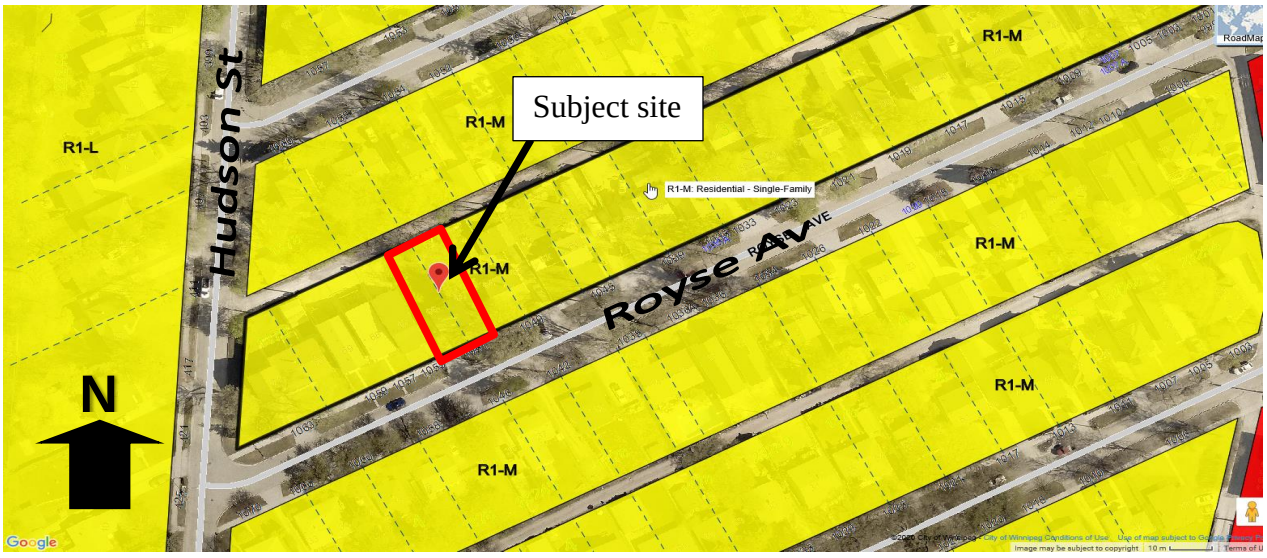

Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to separate the underling titles and create two (2) buildable lots (Lots 65 and Lot 66). Each of the proposed lots will be 25 feet by 101 feet.

- The applicant is proposing a single-family house on each of the proposed lots (Lots 65 & 66)
- There are no development plans submitted with this application.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY:

- The subject site is in an "Area of Stability" policy area of *OurWinnipeg* and *Complete Communities*. Key Direction in these documents that applies to Area of Stability states: "Enhance the quality, diversity, completeness and sustainability of stable neighborhoods and expand housing options for Winnipeg's changing population."
- Under the *Complete Communities Direction Strategy*, relevant policies for Area of Stability that apply directly to the proposed development include:
    - *Support the subdivision of a parcel of land into two or more lots when it is done in a context sensitive manner.*

      As detailed under "Lot area" below, the proposed lot sizes are compatible with others on the block. As such, they are in compliance with Complete Communities.
    - *Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.*

      The creation of an additional lot on this block of Royse Avenue will provide a minor density increase within this Mature Community, in alignment with the above policy. As further detailed under "Lot area" below, the proposed lot sizes are compatible with others on the block.
    - *Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.*

      As detailed under "Lot area" below, the proposed lot sizes are compatible with others on the block. Conditions of approval that are being placed on this application requiring a front entrance, no attached garages, no front approach, plan approval will help ensure that the development is built in a way that complement the existing context.

The proposed lot area variance would comply with the above noted policies because it would facilitate development that increases the supply, the variety and quality of housing types in the neighbourhood.

The Urban Planning Division supports the proposal because it complies with *Complete Communities*. In addition, new residential development will provide a number of positive spin-offs for the neighbourhood including adding more eyes to the street and adding more people to patronize local community clubs, schools, parks, libraries, etc.

ZONING BY-LAW 200/2006

Reason for This Application

- The applicant is proposing lot areas of **2,525** square feet for the two proposed lots instead of **3,500** square feet.

- As such, the proposed lot areas do not meet the Zoning By-Law dimensional standards for “R1-M” lot area requirement, therefore requiring a variance.

DISCUSSION AND ANALYSIS OF VARIANCE

A lot area of 2,525 sq. ft. instead of 3,500 sq. ft.

- The proposal to establish two residential lots, with reduced lot areas is consistent with *Complete Communities* objectives to support infill development.
- There are a number of existing similarly sized lots on the same block as the subject property that fall below the “R1-M” lot area requirement of 3,500 sq. ft.
- Typically, the Urban Planning Division would support applications that seek to vary the lot area of residential lots if there are existing examples of similarly sized lots on the subject block. In this case, the applicant is proposing lot sizes that are similar in size to other existing lots within the immediate vicinity.
- Examples of similarly sized lots on this block of Royse Avenue are;
    - 1036 Royse Av. (Lot area 2,525 sq. ft.);
    - 1036A Royse Av. (Lot area 2,525 sq. ft.);
    - 1055 Royse Av. (Lot area 2,525 sq. ft.);
    - 1057 Royse Av. (Lot area 2,525 sq. ft.); and
    - 1059 Royse Av. (Lot area 2,525 sq. ft.);
- The above example suggests that the proposed lot sizes would be compatible with other residential properties located on this block of Royse Avenue.
- It is therefore recommended that the variance application be approved.

CONDITIONS OF APPROVAL

- In order to maintain the existing built form in this residential area, a few conditions of approval are recommended. These include garages not be attached to the principal dwelling, that access to the property be directly from the rear public lane (i.e. no front approaches) and that the building must have an entrance on the front façade. These conditions are necessary to ensure that the proposal will be developed in a manner that reflects the established built form.

- Condition # 5 is to ensure that the two proposed buildings are different in terms of materials, roof articulation. Condition # 6 provides the Urban Planning Division the opportunity to review final plans to ensure consistency with condition # 5.

- Condition # 7 is to ensure that there is a minimum of 2 feet clearance between the building wall and the lot line at all times. The 2 foot minimum side yard is important to as most developers now design buildings with projections that tend to impede movement along the side yards.

- Condition # 8 is to ensure that the existing front approach on the subject site is closed and the boulevard restored to City standard, while parking is taking off the rear public lane.

REASONS FOR RECOMMENDATIONS

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

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

In that, the establishment of two (2) residential lots and the construction of two single-family residential dwellings on this block of Royse Avenue is context-sensitive, and provides a range of housing that fits existing neighbourhood character.

(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 establishment of two residential lots and the construction of two houses will not create any adverse effect on 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;

In that, the subject site has an underlying parcel survey of two (2) lots in the original plan subdivision. The applicant requires variance approval to establish two separate titles creating buildable lots with reduced lot areas.

(d) is compatible with the area in which the property to be affected is situated.
In that, the proposed lots will be compatible with other existing built form, scale and character.

CONSULTATION

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

OURWINNIPEG POLICY ALIGNMENT

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

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

- Construct more complete neighbourhood and revitalize the livability of all communities throughout Winnipeg.

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Urban Planning
Prepared by:	Femi Ojo, MCIP, RPP
Date:	February 19, 2020
File No.	DAV 20-106580\C

Exhibit “6” referred to in File DAV 106580/2020C

CIVIC ADDRESS 1051 Royse Ave, Winnipeg, MB R3E 1V4

PROPOSED PLAN

