PUBLIC HEARINGS

Item No. 6 Variance – 956 and 958 McMillan Avenue
(River Heights – Fort Garry Ward)
File DAV 125617/2016D [c/r DAZ 211/2016 and DCU 125650/2016D]

COMMUNITY COMMITTEE DECISION:

The City Centre Community Committee did not concur in the recommendation of the Winnipeg Public Service and rejected the application for a Variance under File DAV 125617/2016D as follows

- 1. for the construction of a multi-family dwelling to permit the following:
 - a. a front yard of 15 feet (4.6 metres) instead of 27 feet (8.2 metres);
 - b. a rear yard of 20 feet (6.1 metres) instead of 25 feet (7.62 metres);
 - c. a west corner side yard of 5 feet (1.5 metres) instead of 20 feet (6.1 metres);
 - d. no west corner side yard balcony projection instead of 1.7 feet (0.52 metres);
 - e. insufficient street edge landscaping;
- 2. for the establishment of an accessory parking area to permit open parking providing a length of 20 feet (6.1 metres) instead of 23 feet (7.01 metres) when directly accessed from a public lane.

DECIS	ION MAKING HISTORY:
	innipeg Public Service advised that all statutory requirements with respect to this tion have been complied with.
Moved	by Councillor Orlikow, That the report of the Winnipeg Public Service be taken as read.
	Carried
Moved	by Councillor Orlikow, That the receipt of public representations be concluded.
	Carried
	by Councillor Orlikow, That in accordance with Subsection 247(3) of The City of Winnipeg r, 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 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

is not

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

(d)

is

DECISION MAKING HISTORY (continued):

Supporting Comments:

- 1. There was acknowledgement today that the area Councillor has never been in support of amalgamating the lots. I believe it's a bad precedent setting for the neighbourhood and I believe it's encroaching down the block by doing that. They should have kept them on two separate titles. I appreciate the fact that they want to have an elevator to sell these units and it works for their matrix but that's actually not my specific issue, I look at the context
- 2. My issue is about how does it fit with the neighbourhood and I believe this is nothing more than encroaching down the street. I believe the other application we had with the three and the five units is viable, it was viable then and I hope it would be viable still. Maybe they have to have a little less parking and they can use transit that's why I didn't support it there.
- 3. I also believe that the administration's rationale for supporting this because it's at a corner lot is very precedent setting as well that I'm not too keen on. I don't know what that means does this mean other blocks down Harrow also will be considered, including the ones down by Harvard and Yale? This would be precedent setting that Harrow should be densified to an RMF standard, not even an R2 standard. So that would be precedent setting. I do not support that.
- 4. I don't support the idea that the applicant, even though it was within their right but against the advice of the administration, did not go through a DASZ. I believe that it is the City's job, especially considering the developer knew of my concerns about that. I do feel a little bit of a run-around and they say they didn't do it on purpose and I'll respect that, but that fact of the matter is they did know my concerns about doing that and we weren't given the fair opportunity to discuss that.
- 5. I believe the sidewalk idea is a terrible idea on the Harrow side. I didn't appreciate what the developer said, if you want to do a chip or a little bit of a winding pathway that's fine but the idea of taking down trees to put a concrete sidewalk in with the Dutch elm problems we're having right now would be counterintuitive so I know it's not theirs but it was part of this development agreement so I don't support that.
- 6. The developer indicated that scaling it down from an RMF-M to an RMF-S would not be financially viable to them, nor would dealing with the setback. Having the setback lined up properly like has happened in all the other developments; they don't believe that's doable either and the height has to remain at 44 feet so there was no movement that I saw that I could support the rezoning.

Carried

DECISION MAKING HISTORY (continued):

Moved by Councillor Orlikow,

That the recommendation of the Winnipeg Public Service not be concurred in, and the application for a Variance under File DAV 125617/2016D be rejected.

Carried

Moved by Councillor Orlikow,

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

Carried



THE CITY OF WINNIPEG VARIANCE ORDER CITY CENTRE COMMUNITY COMMITTEE

DAV 125617/2016D [c/r DAZ 211/2016 and DCU 125650/2016D]

Before: City Centre Community Committee

Councillor Gerbasi, Chairperson

Councillor Gilroy Councillor Orlikow

Hearing: November 8, 2016

Council Building, 510 Main Street

Applicant: Ventura Developments Inc. (Tim Comack)

Premises Affected: 956 and 958 McMillan Avenue

Legal Description: PARCEL "A" PLAN 59681 WLTO IN RL 34 PARISH OF ST

BONIFACE, hereinafter called "the land"

"R1-M PDO-1 Airport Vicinity Protection Area" Property Zoned:

(Residential Single-Family – Medium, Planned Development

Overlay – 1 District, Airport Vicinity Protection Area)

Proposed "RMF-M PDO-1 Airport Vicinity Protection Area" (Residential Multi-Family – Medium, Planned Development Overlay – 1 District, Airport Vicinity Protection Area)

To vary the Proposed "RMF-M PDO-1 Airport Vicinity Protection Nature of Application:

Area" Dimensional Standards of the Winnipeg Zoning By-law No.

200/2006 as follows:

1. for the construction of a multi-family dwelling to permit

the following:

a front yard of 15 feet (4.6 metres) instead of 27 feet a.

(8.2 metres);

Prev Doc Menu Next Doc

- b. a rear yard of 20 feet (6.1 metres) instead of 25 feet (7.62 metres);
- c. a west corner side yard of 5 feet (1.5 metres) instead of 20 feet (6.1 metres);
- d. no west corner side yard balcony projection instead of 1.7 feet (0.52 metres);
- e. insufficient street edge landscaping;
- 2. for the establishment of an accessory parking area to permit open parking providing a length of 20 feet (6.1 metres) instead of 23 feet (7.01 metres) when directly accessed from a public lane.

It is the opinion of the City Centre Community Committee that this Variance does not meet 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. There was acknowledgement today that the area Councillor has never been in support of amalgamating the lots. I believe it's a bad precedent setting for the neighbourhood and I believe it's encroaching down the block by doing that. They should have kept them on two separate titles. I appreciate the fact that they want to have an elevator to sell these units and it works for their matrix but that's actually not my specific issue, I look at the context.
- 2. My issue is about how does it fit with the neighbourhood and I believe this is nothing more than encroaching down the street. I believe the other application we had with the three and the five units is viable, it was viable then and I hope it would be viable still. Maybe they have to have a little less parking and they can use transit that's why I didn't support it there.

- 3. I also believe that the administration's rationale for supporting this because it's at a corner lot is very precedent setting as well that I'm not too keen on. I don't know what that means does this mean other blocks down Harrow also will be considered, including the ones down by Harvard and Yale? This would be precedent setting that Harrow should be densified to an RMF standard, not even an R2 standard. So that would be precedent setting. I do not support that.
- 4. I don't support the idea that the applicant, even though it was within their right but against the advice of the administration, did not go through a DASZ. I believe that it is the City's job, especially considering the developer knew of my concerns about that. I do feel a little bit of a run-around and they say they didn't do it on purpose and I'll respect that, but that fact of the matter is they did know my concerns about doing that and we weren't given the fair opportunity to discuss that.
- 5. I believe the sidewalk idea is a terrible idea on the Harrow side. I didn't appreciate what the developer said, if you want to do a chip or a little bit of a winding pathway that's fine but the idea of taking down trees to put a concrete sidewalk in with the Dutch elm problems we're having right now would be counterintuitive so I know it's not theirs but it was part of this development agreement so I don't support that.
- 6. The developer indicated that scaling it down from an RMF-M to an RMF-S would not be financially viable to them, nor would dealing with the setback. Having the setback lined up properly like has happened in all the other developments; they don't believe that's doable either and the height has to remain at 44 feet so there was no movement that I saw that I could support the rezoning.

ORDER:

The City Centre Community Committee orders that the Application for a Variance under File DAV 125617/2016D is rejected.

DATE OF ORDER: November 10, 2016 CERTIFIED BY:

Kate McMillan Committee Clerk

HOW TO APPEAL

You may appeal against either the whole of this order or part(s) of it by filing a letter of appeal.

That letter must be submitted in writing, be signed by the appellant, show the printed name of the appellant, contain the mailing address of the appellant, contain the contact telephone number of the appellant, and

- (a) be addressed as set out below,
- (b) be received at that office not later than 4:30 p.m. on November 30, 2016, [IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]
- (c) refer to Variance Order No. DAV 125617/2016D, give brief reasons for the appeal and must describe whether you appeal the whole order or only part(s) of it.

Any appeal letters not containing all of the above elements will be rejected by the City Clerk as invalid appeals and will not be heard at an appeal hearing.

You can attend the appeal hearing and speak on issues raised in someone else's appeal, but the appeal committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address: City Clerk, City of Winnipeg

c/o Appeal Committee Administration 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:

Tim Comack, Ventura Developments Jonathan Freed, Venture Developments Brent Lauman, 701 Architecture Alden Neufeld Michael Workman

In Opposition:

Kara Bashytski Marion Chyzzy Fred Curry
Franca De Grazia
Cheryl Hobbs
Kelsey Huth
Carolee Neufeld
Ken Neufeld
Blanche Obradovic
Myra Tait
George Weaver
Tim Duprey
Zbig Novak
Alison Haugh

For Information:

Jeff Frank

For the City:

- M. Robinson, Senior Planner, Planning, Property and Development Department
- A. Ross, Planner, Planning, Property and Development Department
- D. Harris, Planner, Planning, Property and Development Department

EXHIBITS FILED FOR DAV 125617/2016D

- 1. Application dated September 20, 2016
- 2. Notification of Public Hearing dated October 13, 2016
- 3. Manitoba Status of Title 2855613/1
- 4. Letter of authorization dated July 21, 2014 from Cliff Penner, President, 6622322 Manitoba Inc. to Ventura Developments Inc.
- 5. Confirmation from the Zoning and Permits Administrator that the subject property may be posted in substitution for newspaper advertising
- 6. Concept design of subject property
- 7. Plans, Sheets 1 to 7 inclusive, for File DAV 125617/2016D dated June 10, 2016
- 8. Report from the Urban Planning Division dated November 1, 2016
- 9. Inspection Report
- 10. Communication dated November 7, 2016, from Fred Curry in opposition to the application
- 11. Communication dated November 7, 2016, from Tim Duprey in opposition to the application
- 12. Communication dated November 8, 2016, from Marion Chyzzy with respect to the application
- 13. Communication dated November 8, 2016, from Blanche Obradovic in opposition to the application
- 14. Communication dated November 8, 2016, from Zbig Novak in opposition to the application
- 15. Communication dated November 8, 2016 from Alison Haugh in opposition to the application
- 16. Submissions in support of the application submitted by the Applicant at the public hearing
- 17. Presentation in opposition to the application submitted by Fred Curry at the public hearing
- 18. Communication dated November 8, 2016, from Jeff Frank with respect to the application

Exhibit "8" referred to in File DAV 125617/2016D

ADMINISTRATIVE REPORT

Title: DAV 16-125617\D – 958 McMillan AVE

Issue: For consideration at the public hearing for a variance.

Critical Path: City Centre Committee as per the Development Procedures By-law and

The City of Winnipeg Charter.

AUTHORIZATION

Author	Division Head	Department Head	CFO	CAO
Andrew Ross	B. Smith	n/a	n/a	

RECOMMENDATIONS

The Urban Planning Division recommends approval of the application to vary the Proposed "RMF-M PDO-1 Airport Vicinity Protection Area" dimensional standards of Zoning By-Law No. 200/2006 as follows:

- 1) for the construction of a multi-family dwelling to permit the following:
 - a) a front yard of 15 feet (4.6 metres) instead of 27 feet (8.2 metres);
 - b) a rear yard of 20 feet (6.1 metres) instead of 25 feet (7.62 metres);
 - c) a west corner side yard of 5 feet (1.5 metres) instead of 20 feet (6.1 metres);
 - d) no west corner side yard balcony projection instead of 1.7 feet (0.52 metres);
 - e) insufficient street edge landscaping;
- 2) for the establishment of an accessory parking area to permit open parking providing a length of 20 feet (6.1 metres) instead of 23 feet (7.01 metres) when directly accessed from a public lane.

Subject to the following condition(s):

- 1) That the development shall be built in substantial conformance with the plans submitted and attached hereto as Sheets 1-7 for File No. DAV-125617D, dated June 10, 2016.
 - 2) That, if any variance granted by this order is not established within two (2) years of the date hereof, this order, in respect of that Variance shall terminate.

REASON FOR THE REPORT

Variance applications require a public hearing as per *The Development Procedures By-law* No. 160/2011 and *The City of Winnipeg Charter*, section 249.

The report is being submitted for the City Centre 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 variance can be granted.

FILE/APPLICANT DETAILS

FILE: DAV 16-125617/D

RELATED FILES: DAZ 211/2016 and DCU 16-125650/D

COMMUNITY: City Centre Committee

NEIGHBOURHOOD #: 1.601

SUBJECT: To vary the Proposed "RMF-M PDO-1 Airport Vicinity Protection

Area" dimensional standards of Zoning By-Law No. 200/2006 as

follows:

1) for the construction of a multi-family dwelling to permit the

following:

a) a front yard of 15 feet (4.6 metres) instead of 27 feet (8.2

metres);

b) a rear yard of 20 feet (6.1 metres) instead of 25 feet (7.62

metres):

c) a west corner side yard of 5 feet (1.5 metres) instead of 20 feet

(6.1 metres);

d) no west corner side yard balcony projection instead of 1.7 feet

(0.52 metres);

e) insufficient street edge landscaping;

2) for the establishment of an accessory parking area to permit

open parking providing a length of 20 feet (6.1 metres) instead of 23

feet (7.01 metres) when directly accessed from a public lane.

LOCATION: 958 McMillan AVE

LEGAL DESCRIPTION: PCL A PLAN 59681

APPLICANT: Tim Comack

475 Dovercourt DR Unit 2

Winnipeg, Manitoba R3Y 1G4

OWNER: 27 TERRACON PL

Winnipeg, Manitoba R2J 4B3

HISTORY

N/A

DISCUSSION

CRITERIA FOR APPROVAL

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

- (a) is consistent with Plan Winnipeg and any applicable secondary plan;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is compatible with the area in which the property to be affected is situated.

SITE DESCRIPTION

- The subject property, currently zoned "R1-M" Residential Single Family (Medium), is located on the southeast corner of McMillan Avenue and Harrow Street, in the Crescentwood neighbourhood of the River Heights - Fort Garry ward.
- On August 12, 2016, the applicant consolidated the previous two lots on the property (which were 6.045 sq. ft. each) into one parcel, through the Land Titles Office (Property Registry).
- The subject property is 12,089 sq. ft. in size and is currently vacant.



Figure 1: Air photo of the location of subject property and surrounding area (2016).

The immediate area is characterized primarily by single family residential, duplexes, and some higher-density residential development primarily on corner lots. The site is one block north of Corydon Avenue – a vibrant commercial spine and a Community Mixed Use Corridor as identified in the Complete Communities Direction Strategy. Nearby development on Corydon Avenue includes a mix of commercial, office, residential and mixed use development. Immediately adjacent land uses include:

North: Single family and two-family residential uses zoned "R1-M" Residential Single-family

Two-Family (Medium)

South: Mixed commercial and office uses zoned "C2" – Commercial Community

East: Single family residential uses zoned "R1-M" Residential Single-family Two-Family

(Medium)

West: Single family residential uses zoned "R1-M" Residential Single-family Two-Family

(Medium)

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant seeks variances for yards, landscaping and parking in order to build a four-storey, 12-unit multifamily building on the subject property.

REASON FOR APPLICATION

Front yard

A front yard alignment is required in cases where the front yard for the zoning district is inconsistent with the majority of front yards on the block. The alignment is calculated as the average of existing front yards within the block. The applicant proposes a front yard of 15 feet rather than the required 27 feet, therefore a variance is required.

Rear yard

In the RMF-M district, a rear yard of 25 feet is required. The applicant proposes a rear yard of 20 feet, therefore a variance is required.

West corner side yard

In the RMF-M district, a corner side yard of 20 feet is required. The applicant proposes a west corner side yard of 5 feet, therefore a variance is required.

West corner side yard balcony projection

A maximum depth of 4 inches per foot of provided side yard is required for balcony projections (1.7 feet for this development). The applicant proposes zero feet between the balconies and the west corner side property line, therefore a variance is required.

Street edge landscaping

A minimum of seven (7) trees and thirty-three (33) shrubs are required along the two street elevations. The applicant proposes one (1) tree, therefore a variance is required.

Parking off the lane

Parking stalls located directly off the lane have a minimum required length of 23 feet. The applicant proposes a length of 20 feet, therefore a variance is required.

ANALYSIS AND ISSUES

Complete Communities Direction Strategy

As per the *Complete Communities Direction Strategy*, the proposed development falls within Areas of Stability – Mature Communities policy area. Key policies guiding development within Areas of Stability include:

- Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.
- 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 proposal supports a moderate density increase to a Mature Community, and adds to the mix of housing types in the neighbourhood, in alignment with goals of Complete Communities.

Winnipeg Zoning By-Law

Front yard

This property is a corner lot. Multifamily corner lots in this neighbourhood typically have reduced front yards. Fifteen feet is a sufficient depth of space to provide for a landscaped area as proposed. The Urban Planning Division supports the fifteen-foot front yard and recommends that this variance be approved.

Rear vard

In urban neighbourhoods within Mature Communities such as this one, reduced rear yards are a common part of the context. The Urban Planning Division supports this variance and recommends that it be approved.

West corner side yard

Similar to the rationale with respect to the rear yard, reduced corner side yards fronting the sidewalk are common in Mature Communities, and are part of the expression of a pedestrian-friendly neighbourhood. The five feet as proposed will include landscaping. The Urban Planning Division supports this variance and recommends that it be approved.

West corner side yard balcony projection

The balcony projection to the lot line applies only to the column of balconies situated near the southwest corner of the building facing Harrow Street. The majority of the Harrow frontage will provide five (5) feet. The projection for this portion of the façade lends greater articulation to the frontage and helps 'break up' the massing of the building facing the street. The Urban Planning Division supports this variance and recommends that it be approved.

Street edge landscaping

While only one tree is being provided as street edge landscaping, the applicant is voluntarily providing another approximately thirty-three shrubs of building foundation landscaping along Harrow Street. The Harrow Street yard does not permit space for trees, and the McMillan (front) yard does not permit viable space for the planting of more than one tree. The applicant is providing a row of cedar trees to screen the property from the east abutting residential property. The Urban Planning Division believes the landscaping plan distributes plantings onsite in a viable manner, and supports this variance. To provide assurance of the plantings as shown, a substantial conformance condition is being recommended.

Parking off the lane

The applicant is not providing space to accommodate the required 23 feet of length for stalls off the lane. The Urban Planning Division has requested to the applicant that signage indicating small-car parking only is provided for these stalls. Signage will be addressed as part of plan approval, which is a condition of Associated File No. DAZ 211/2016.

OTHER ISSUES

Public Engagement

The applicant held an open house on April 26, 2016 at 7:00pm at Kelvin High School. Invitations were sent out to neighbours on the street and other nearby properties and the applicant indicates that ten residents attended.

REASONS FOR RECOMMENDATIONS

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

- (a) is consistent with Plan Winnipeg and any applicable secondary plan;
 In that, the development adds moderate density to a Mature Community, and adds to the mix of housing types in the neighbourhood in alignment with goals of Complete Communities.
- (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 scale and form of the development are compatible with the context.
- (c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and In that, the variances requested are reflective of similar variances issued in Mature Communities in urban settings.
- (d) is compatible with the area in which the property to be affected is situated.

 In that, the scale and form of the development are compatible with the context.

CONSULTATION

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

SUBMITTED BY

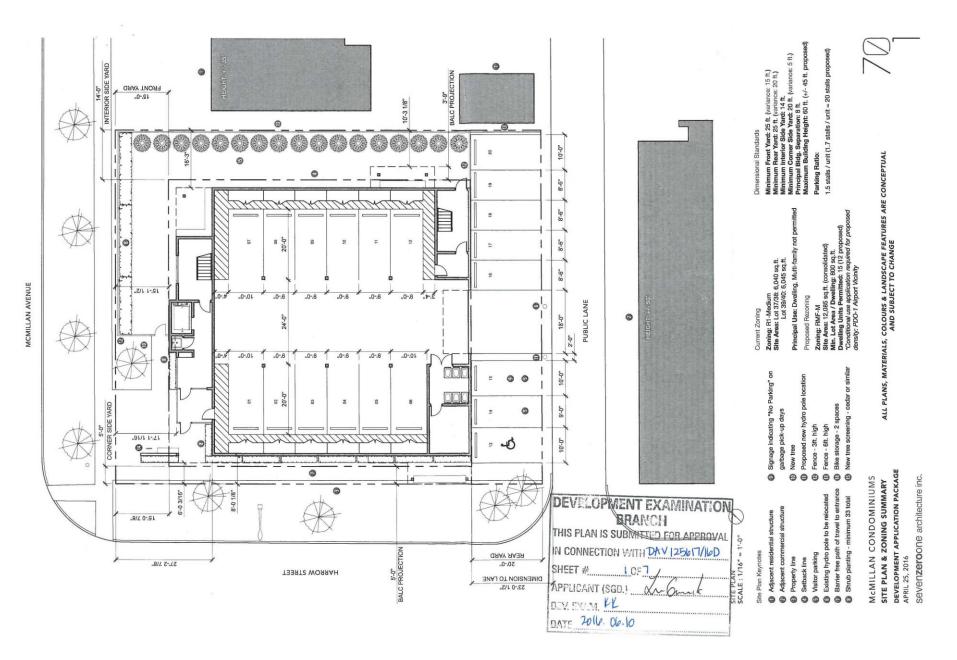
Planning, Property and Development Urban Planning Department:

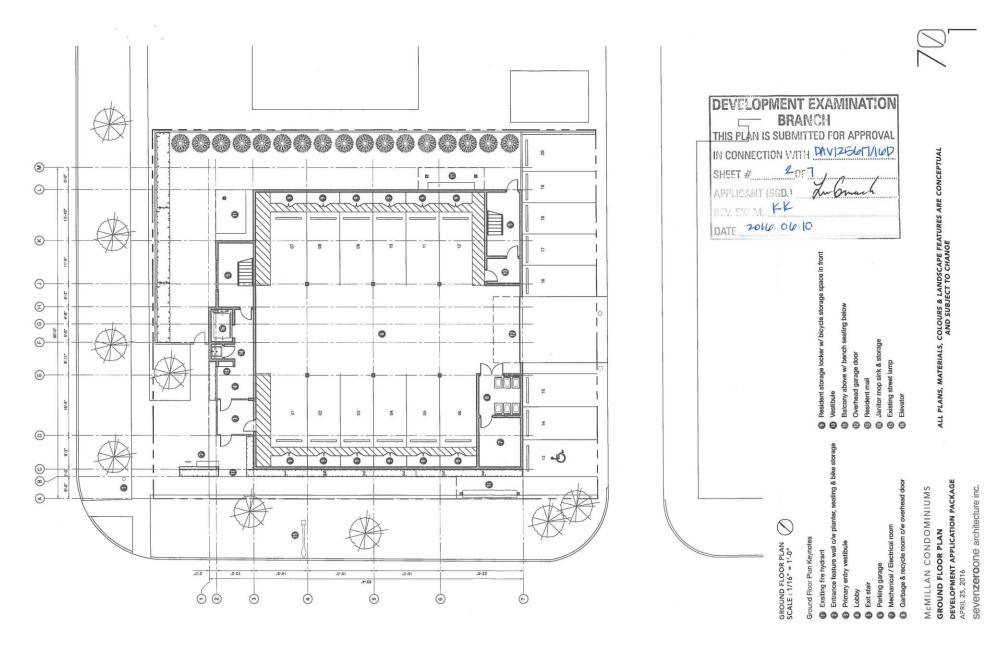
Division:

Andrew Ross, MCP, MCIP Prepared by: Tuesday, November 1, 2016 DAV 16-125617\D Date:

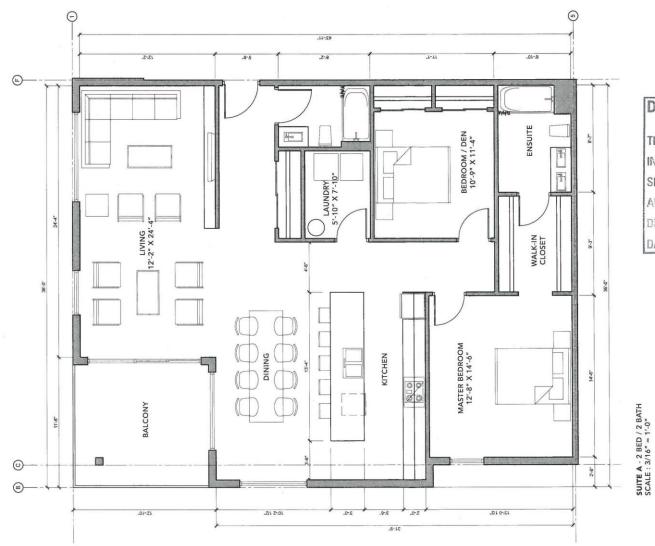
File No.

Exhibit "7" referred to in File DAV 125617/2016D









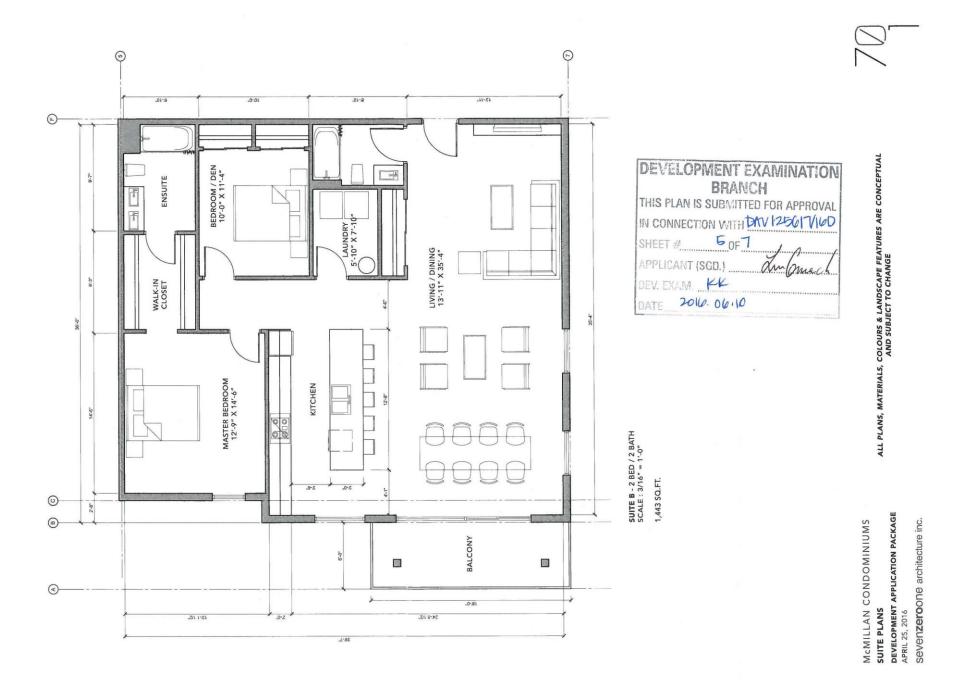
DEVELOPMENT EXAMINATION
BRANCH
THIS PLAN IS SUBMITTED FOR APPROVAL
IN CONNECTION WITH DAVI25611/16D
SHEET # 40F7
APPLICANT (SGD.)
DEV. EXAM. FK
DATE 2016-06:10

1,466 SQ.FT.

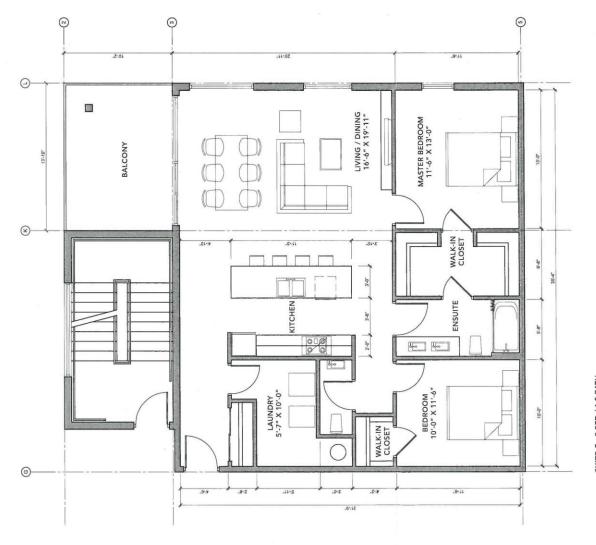
ALL PLANS, MATERIALS, COLOURS & LANDSCAPE FEATURES ARE CONCEPTUAL AND SUBJECT TO CHANGE

McMILLAN CONDOMINIUMS
SUITE PLANS
DEVELOPMENT APPLICATION PACKAGE
APRIL 25, 2016

sevenzeroone architecture inc.







THIS PLAN IS SUBMITTED FOR APPROVAL IN CONNECTION WITH DAV 125617/16D APPLICANT (SGD.) DEV. EXAM. KK DATE 2014. 06.10

SCALE: 3/16" = 1'-0" 1,177 SQ.FT.

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McMILLAN CONDOMINIUMS
SUITE PLANS
DEVELOPMENT APPLICATION PACKAGE
APRIL 25, 2016
SEVENZEYOODE architecture inc.

