

Minutes – Appeal Committee – June 7, 2012

PUBLIC HEARINGS

**Minute No. 33 Appeal - Conditional Use – 108 Scotia Street
(Mynarski Ward)
File DCU 110705A/2012D**

COMMITTEE DECISION:

The Appeal Committee allowed the appeal, did not concur in the decision of the Lord Selkirk - West Kildonan Community Committee and approved a Conditional Use to permit on “the land” the establishment of a multi-family dwelling use under the proposed R2 zoning.

Further, the Appeal Committee cancelled Conditional Use Order DCU 110705/2012D.

Minutes – Appeal Committee – June 7, 2012

DECISION MAKING HISTORY:

Pursuant to Rule 8(4) The Procedure By-law No. 50/2007, Councillors Browaty and Nordman constituted the necessary quorum.

Pursuant to Rule 52(2) of The Procedure By-law No. 50/2007, Councillor Pagtakhan left the room during consideration of this appeal inasmuch as he was a member of the Lord Selkirk - West Kildonan Community Committee, which conducted the initial public hearing.

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

The Chairperson called Councillor Nordman to the Chair in order to move the following motions:

Moved by Councillor Browaty,

That the report of the Winnipeg Public Service be taken as read.

Carried

Moved by Councillor Browaty,

That the receipt of public representations be concluded.

Carried

Moved by Councillor Browaty,

That Section 254 and criteria (a), (b) and (d) of Subsection 247(3) of The City of Winnipeg Charter, are satisfied.

Carried

Moved by Councillor Browaty,

That the appeal be allowed, the decision of the Lord Selkirk - West Kildonan Community Committee not be concurred in and Conditional Use Order DCU 110705/2012D be cancelled.

Carried

Minutes – Appeal Committee – June 7, 2012

Moved by Councillor Browaty,

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

Carried

Councillor Browaty resumed the Chair.



**THE CITY OF WINNIPEG
CONDITIONAL USE APPEAL ORDER
APPEAL COMMITTEE**

DCU 110705A/2012D

Before: Appeal Committee
Councillor Browaty, Chairperson
Councillor Nordman

Hearing: June 7, 2012
Council Chamber
Council Building, 510 Main Street

Applicant: Fairview Custom Homes Ltd.
(Paramjit Shahi)

Premises Affected: 108 Scotia Street

Legal Description: Lot 115/116 Block 1 Plan 228 2K, hereinafter called “the land”

Property Zoned: “R1-M” Residential Single Family - Medium District

Zoning Atlas Sheet: W26

Nature of Application: For a Conditional Use under the Winnipeg Zoning By-law No. 200/2006 to permit the establishment of a multi-family dwelling use under the proposed R2 zoning

ORDER MADE BY THE LORD SELKIRK-WEST KILDONAN COMMUNITY COMMITTEE:

The Lord Selkirk-West Kildonan Community Committee rejected a Conditional Use, File DCU 110705/2012D, to Fairview Custom Homes Ltd. (Paramjit Shahi), for premises located at 108 Scotia Street, to permit on “the land” the establishment of a multi-family dwelling use under the proposed R2 zoning.

Pursuant to the provisions of The City of Winnipeg Charter, Paramjit Shahi, Fairview Custom Homes Ltd., appealed the Conditional Use Order DCU 110705/2012D and after Notice, the appeal was heard on June 7, 2012.

Upon consideration of the evidence adduced and submissions made, the Appeal Committee is of the opinion that, subject to the condition(s) imposed under this Appeal Order if any, Section 254 and criteria (a), (b) and (d) of Subsection 247(3) of The City of Winnipeg Charter, set out below, are satisfied:

- (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; and
- (d) is compatible with the area in which the property to be affected is situated.

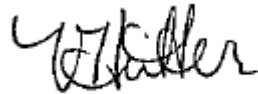
ORDER:

The Appeal Committee orders that the appeal is allowed and that Conditional Use Order DCU 110705/2012D dated April 12, 2012, is cancelled.

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

DATE OF ORDER: June 12, 2012

CERTIFIED BY:



Visa Hutter
Senior Committee Clerk

THE FOLLOWING PERSONS MADE REPRESENTATIONS:

In Support of the Appeal:

Brian Mansky
Paramjit Shahi

In Opposition to the Appeal:

Kory Bodnaryk
Ricky Kraut
Andrew Jack Thomson
Peter Woloschiniwsky

For Information on the Appeal:

Nil

For the City:

Mr. J. Veitch, Senior Planner, Planning, Property and Development Department
Mr. N. Yauk, Planner, Planning, Property and Development Department
Mr. J. Newton, Development Planning Officer, Planning, Property and Development Department
Mr. J. Carter, Solicitor, Legal Services Department

EXHIBITS FILED FOR DCU 110705A/2012D

1. Order DCU 110705/2012D dated April 12, 2012
2. Notice of Appeal filed by Paramjit Shahi, Fairview Custom Homes Ltd., received April 19, 2012
3. Notification of Public Hearing dated May 22, 2012
4. Confirmation from the Zoning Development Administrator that the subject property may be posted in substitution for newspaper advertising
5. Plans, Sheets 1 and 3 inclusive, for File DCU 110705/2012D dated March 26, 2012, and Sheet 2 dated March 2, 2012
6. Report from the Planning and Land Use Division dated March 28, 2012
7. Inspection Report
8. Presentation in opposition to the appeal submitted by Ricky Kraut at the public hearing

Exhibit “6” referred to in File DCU 110705A/2012D

ADMINISTRATIVE REPORT

Title: DCU 12-110705/D - 108 Scotia ST

Issue: For consideration at the Public Hearing for a Conditional use to allow the establishment of a 4-unit multiple family dwelling

Critical Path: Lord Selkirk / West Kildonan Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	n/a	n/a	

RECOMMENDATIONS

The Urban Planning Division recommends approval of the applications for a Conditional Use under Zoning By-Law No. 200/2006 to permit the establishment of a multi-family dwelling use (4 units);

Subject to the following condition(s):

- 1) That, if any conditional use granted by this order is not established within two (2) years of the date hereof, this order, in respect of that conditional use, shall terminate.
- 2) That, the maximum number of dwelling units on the land shall not exceed four (4) dwelling units;

REASON FOR THE REPORT

- The applicant is proposing to establish a 4-unit residential development,
- On December 14, 2011 Council approved the rezoning, (DASZ 23/11) of the subject site from ‘R1-M’ Residential Single Family to ‘R2’ Residential Two-family,
- Multiple Family use is Conditional in the ‘R2’ Residential Two-Family zone,
- Conditional Use applications require a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter*,

- The Report is being submitted for the Lord Selkirk / West Kildonan Community Committee's consideration of the development application at the Public Hearing as the subject application falls within two calendar years of the previous associated rezoning, (DASZ 32/11).

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning Division are concurred in, a development permit can be issued.

HISTORY

DASZ 32/11 (DCU 11-160617/D)

- **November 15, 2011** - LSWK Community Committee recommends rejection of the application to rezone and consolidate 66 feet by 99 feet (6,534 square feet) of land into 'R2' Residential Two-family to allow the potential construction of a 4-unit multiple family dwelling pending approval of a Conditional use to allow multiple family in 'R2',
- **November 15, 2011** - LSWK Community Committee also rejects the Conditional Use application to establish the multiple family use in the 'R2' zone,
- **November 29, 2011** - the Standing Policy Committee on Property and Development did not concur in the recommendation by the LSWK Community Committee and recommended to Council that 108 Scotia Street be rezoned to 'R2' Residential Two-family, with several conditions including;
 - A. *That the applicant enter into a Zoning Agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:*
 - i. *That prior to the issuance of any building or development permits, plans shall be submitted to the Director of Planning, Property and Development and the Lord Selkirk - West Kildonan Community Committee for approval, showing detailed elevations / design and landscaping of the proposed development, and shall thereafter be maintained to the satisfaction of the Director of Planning, Property and Development.*
- **December 14, 2011** – Council concurs with the Standing Policy Committee and the subject site, 108 Scotia Street is rezoned to 'R2' Residential Two-family,
- The rejection of the Conditional Use to establish the 4-unit multiple family dwelling was never appealed by the applicant, thus the rejection stands and a new application for the Conditional Use is required to allow the development of multiple family on the 'R2' zoned site, 108 Scotia Street.

CONSULTATION

In preparing this Report there was consultation with:
N/A

SUBMITTED BY

<i>Department</i>	<i>Planning, Property and Development</i>
<i>Division</i>	<i>Urban Planning</i>
<i>Prepared by</i>	James Veitch
<i>Date:</i>	March 28, 2012
<i>File No.</i>	DCU 12-110705/D

APPENDIX 'A'

DATE: March 28, 2012
FILE: DCU 12-110705/D
RELATED FILES: 11 160617 VC
COMMUNITY: Lord Selkirk-West Kildonan Community
NEIGHBOURHOOD #: 3.305

SUBJECT: For a Conditional Use under Zoning By-Law No. 200/2006 to permit the establishment of a multi-family dwelling use under the proposed R2 zoning.

LOCATION: 108 Scotia ST
LEGAL DESCRIPTION: LOT 115/116 BLOCK 1 PLAN 228 2 K

APPLICANT: Paramjit Shahi Fairview Custom Homes Ltd.
18 BLACKBIRD PL
WINNIPEG MB R3T 5X4

OWNER: FAIRVIEW CUSTOM HOMES LTD.
18 BLACKBIRD PL
WINNIPEG MB R3T 5X4

RECOMMENDATION: Approval with Conditions

CRITERIA FOR APPROVAL:

Pursuant to Section 247(3) of the City of Winnipeg Charter, a Conditional Use application can be approved with necessary conditions if the proposed development:

- (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; and
- (d) is compatible with the area in which the property to be affected is situated.

SITE DESCRIPTION

- The **6,538 square foot subject site** is located on the west side of Scotia Street one lot north of the Luxton Avenue intersection. This area is the Luxton Neighbourhood which is within the Mynarski Ward.
- The site is approximately **66 feet wide by 99 feet in depth**, it is zoned 'R1-M' Residential Single Family Medium and is currently vacant due to a recent house fire.
- The site is within the OurWinnipeg / Complete Communities Areas of Stability – Mature Communities Policy Area. The neighbouring properties are zoned 'R1-M' Residential Single-Family Medium and 'R2' Residential Two Family.



Figure 1: Subject Site (Aerial Flown 2009)

SURROUNDING LAND USES & ZONING (See Figure 2 below)

- North:** 'R1-M' Residential Single Family Medium
South: 'R1-M' Residential Single Family Medium
East: Scotia Street then 'R1-M' Residential Single Family Medium (Single family homes & a 10-unit multiplex)
West: Rear lane then 'R2' Residential Two-Family

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant has revised the design of the proposed 4-unit multiple family dwelling in an effort to address the concerns raised when the applications were rejected November 15, 2011,
- The applicant is proposing to consolidate, subdivide and rezone the site area from 'R1-M' Single Family to 'R2' Residential Two-Family in order to create one (1) lot for 4-unit residential development,
- The **revised drawings** submitted illustrate a two-storey multiple family dwelling, with a 22 foot front yard, a 29 foot rear yard and side yards of 6.2 (south) and 6.3 feet (north),
- Siding and stucco are the finishing materials indicated,
- The proposal will also provide a parking area accessed off the rear lane with 7 stalls,

ANALYSIS AND ISSUES

REVISED BUILDING DESIGN DETAILS

The majority of the concerns raised in the November 15, 2011 Lord Selkirk / West Kildonan Community Committee were in respect to massing, scale, the character of the immediate neighbourhood and the finishing aesthetic of the proposed 4-unit multiple family dwelling. The Area Councillor had also indicated that residential density should be accommodated at the end of blocks on larger traffic volume streets. Some of the more significant changes in this application include:

- **Varied footprint** – the applicant's designer has staggered the building foot print moving one side approximately 4 feet forward, providing additional depth and variation to the massing,
- **Horizontal siding** – The exterior finishing has been changed to horizontal siding which is more characteristic of the existing homes in the neighbourhood,
- **Changed roof lines** – The roof lines of the two sides have been altered to further break up the scale; the southernmost side has a hipped roof while the northernmost side shows a peaked dormer style facing the street. The designer has indicated that these alterations have resulted in a lower overall height as well,
- **Complimentary colours** – The designer has varied the colours of the two sides of the 4-unit building visually separating the two sides; the southernmost side is illustrated as a cream / yellow tone while the northernmost side shows hues of light brown / beige.

The Planning and Land Use supported the original application of November 15, 2011 and we continue to support the present application with the revised building massing and aesthetics.

OURWINNIPEG / COMPLETE COMMUNITIES

The Luxton Neighbourhood is identified as a *Mature Community* within an *Area of Stability* in the *Complete Communities Direction Strategy*. The proposal to develop a 4-unit multiple family dwelling on the vacant site within a mixed density residential area aligns with the City's *OurWinnipeg Development Plan*.

- *OurWinnipeg Development Plan*
 - Council's guide to City Building for the next 25 years,
 - The Conference Board of Canada is projecting significant population growth for Winnipeg over the coming years; 10,000 people per year totaling more than

180,000 new Winnipeggers by 2031 – requiring 83,000 new dwelling units, (with only a 13 years of residential land supply),

- Based on our population increases to date, Winnipeg is already outperforming these estimates,
- *OurWinnipeg* states:
 - ***‘Provide Options to Accommodate Growth’***
‘A successful strategy for sustainable city growth needs to be balanced, using a variety of approaches. We need to strike a balance between ‘growing out’ and ‘growing up,’ offering choices from traditional, single-family neighbourhoods to more dense forms of urban housing...’
- **Areas of Stability**
 - Support Low to moderate change in low density neighbourhoods through development and redevelopment that is complementary 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,
 - Areas of Stability – areas where moderate change is anticipated that present some of the best opportunities to accommodate infill development and to increase the range of housing for families and individuals within areas that take advantage of existing infrastructure, transit and amenities such as local retail, schools, parks and community services.
- **Mature Communities**
 - *‘Mature Communities represent some of the most “complete” existing communities in Winnipeg. They present some of the best opportunities to accommodate infill development, to increase housing choice and maximize the use of existing infrastructure.’* (04-1 Mature Communities, p.82 Complete Communities)
 - *‘...expand housing opportunities through infill development.’* (Direction 1, Mature Communities, p.85 Complete Communities)

Compatibility with Existing Neighbourhood and Surrounding Uses

This area of the Luxton Neighbourhood is characterized by a range of residential zones, lot sizes and dwelling densities. The residential blocks of Polson, Luxton and Inkster Avenues are zoned ‘R2’ Residential Two-Family. Scotia Avenue is zoned ‘R1-M’ Residential Single Family.

Currently there are 27 multiple family uses; (23 duplexes & 4 multiplexes) within the immediate area. As noted in the chart below, Scotia Street has the majority of the multiplexes with two 5-unit complexes located at 226 Scotia and 236 Scotia as well as a 10-unit complex directly across the street from the subject site at 105 Scotia Street.

Existing Zoning (See Figure 2):

- Scotia Street East & West Sides – ‘R1-M’ Residential Single Family Medium

- Luxton Avenue North & South Sides – ‘R2’ Residential Two-Family
- Inkster Avenue North & South Sides - ‘R2’ Residential Two-Family
- Polson Avenue North Side - ‘R2’ Residential Two-Family
- Polson Avenue South Side – ‘R1-M’ Residential Single Family Medium

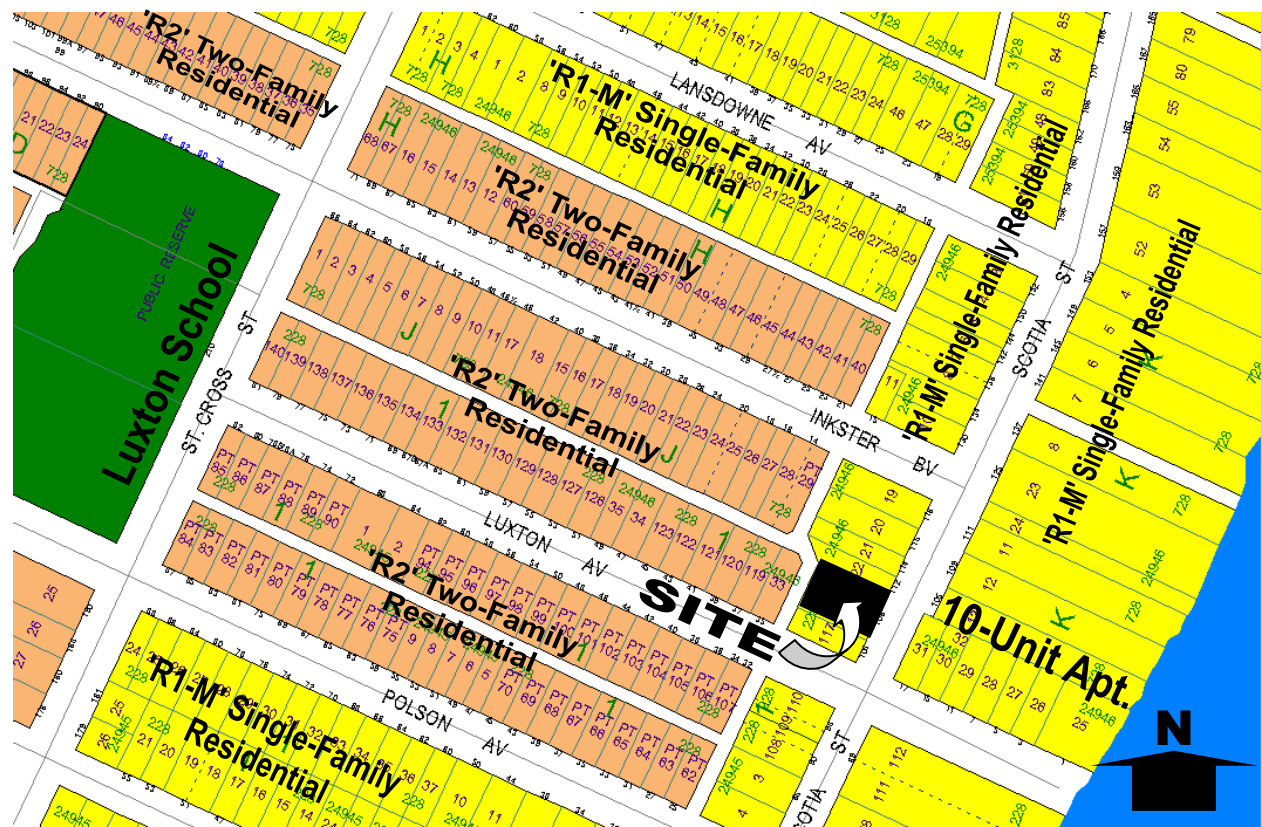


Figure 2: Zoning of the Site and Surrounding Area

Existing Multi-family:

STREET NAME	BLOCK	ZONE	DUPLEX	MULTI-PLEX
Scotia Street	Cathedral Ave. to Forrest Ave.	‘R1-M’ Residential Single Family	7 Duplexes	3 Multiplexes (21 Suites)
Luxton Avenue	St. Cross St. to Scotia Street	‘R2’ Residential Two Family	9 Duplexes	1 Multiplex (3 Suites)
Inkster Avenue	St. Cross St. to Scotia Street	‘R2’ Residential Two Family	1 Duplex	N/A
Polson Avenue	St. Cross St. to Scotia Street	‘R2’ Residential Tow Family	6 Duplexes	N/A
TOTALS			23 Duplexes	4 Multiplexes (24 suites)

Revised Site Design

The applicant intends to build a two-storey, side by side style 4-unit multiplex with two units on the main floor and two on the second floor. The construction will meet or exceed all of the bulk

requirements in the 'R2' Two Family Residential zone as no variances are being contemplated. The building will be set back 20 feet from the front property line, with a 29 foot rear yard which will include 7 parking stalls accessed off the rear lane. The south side yard will be 6.2 feet while the north side yard will be 6.3 feet. It should be noted that this is an additional 2.3 and 2.2 feet greater than the 4 foot side yard requirement in the Zoning by-law for 'R2' and 'R1-M'.

The height of the proposed building, (to the middle of the roof) is 30 feet +/-; the Zoning by-law allows a maximum height measured to the middle of the roof pitch of 35 feet in both the 'R2' and 'R1' zones. The construction materials will be a combination of horizontal siding, wood and stucco. Significant landscaping will be provided as well as a potential wood privacy fence if required by Community Committee.

It should be noted that there is a 'Plan Approval' clause as part of the Zoning Agreement that will allow the Lord Selkirk / West Kildonan Community Committee final approval of all site layout and building design elements prior to any development permits being issued.

RECOMMENDATION

The Urban Planning Division recommends **approval** for the following reasons:

- The project is supported by the City's Development Plan and the *Complete Communities Direction Strategy*,
- The rezoning, construction and density fits with the form and character of the immediate neighbourhood,
- The proposed infill development providing additional much needed housing stock at a minimal density increase is in line with the policies of the City's Development Plan *OurWinnipeg* and our *Complete Communities Direction Strategy*.

REASONS FOR RECOMMENDATIONS

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

- (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; and
- (d) is compatible with the area in which the property to be affected is situated.

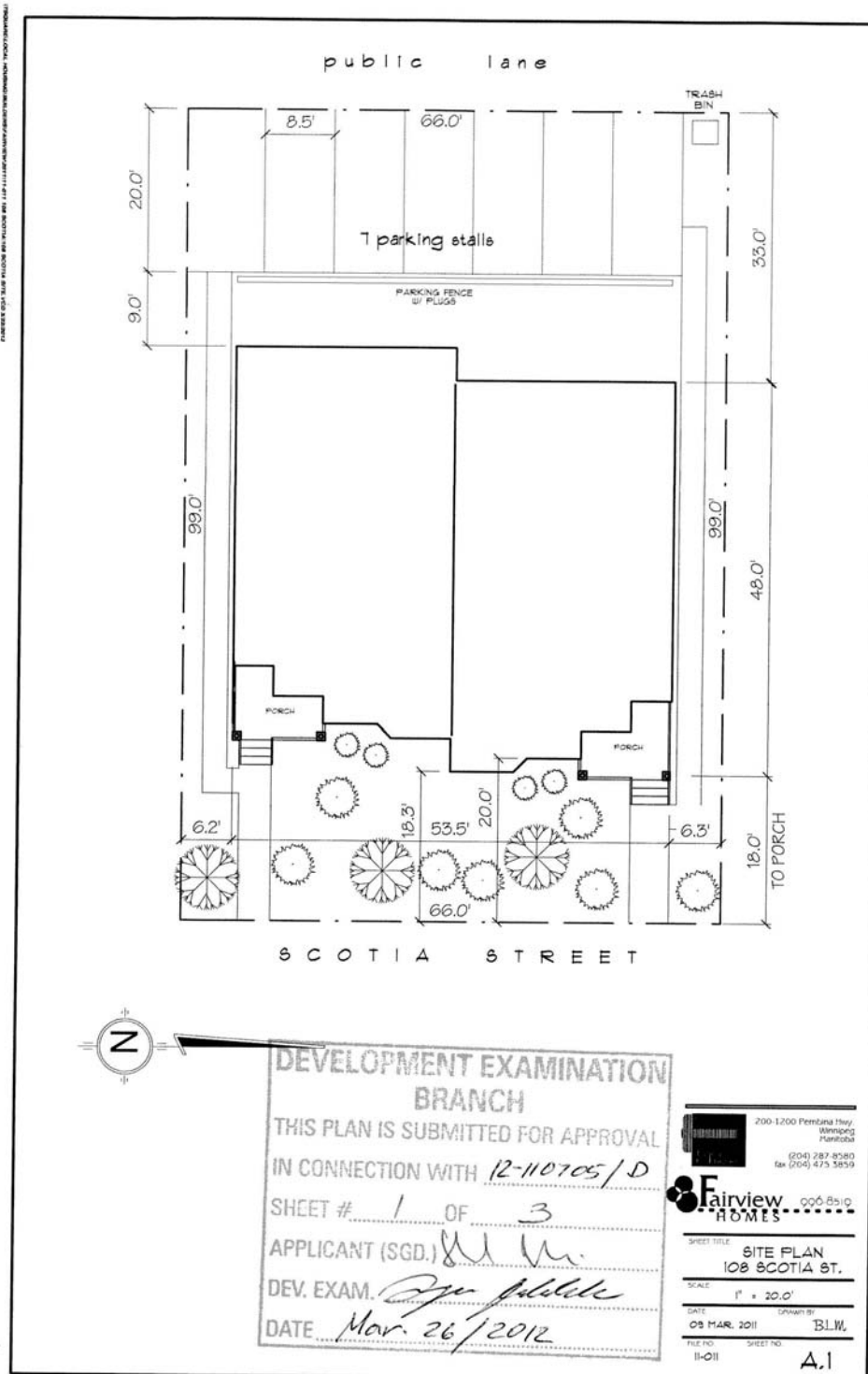
RECOMMENDED CONDITIONS OF APPROVAL

- 1) That, if any conditional use granted by this order is not established within two (2) years of the date hereof, this order, in respect of that conditional use, shall terminate.
- 2) That, the maximum number of dwelling units on the land shall not exceed four (4) dwelling units;

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

Report Prepared by: James Veitch
PPD File # DCU 12-110705/D

Exhibit "5" referred to in File DCU 110705A/2012D



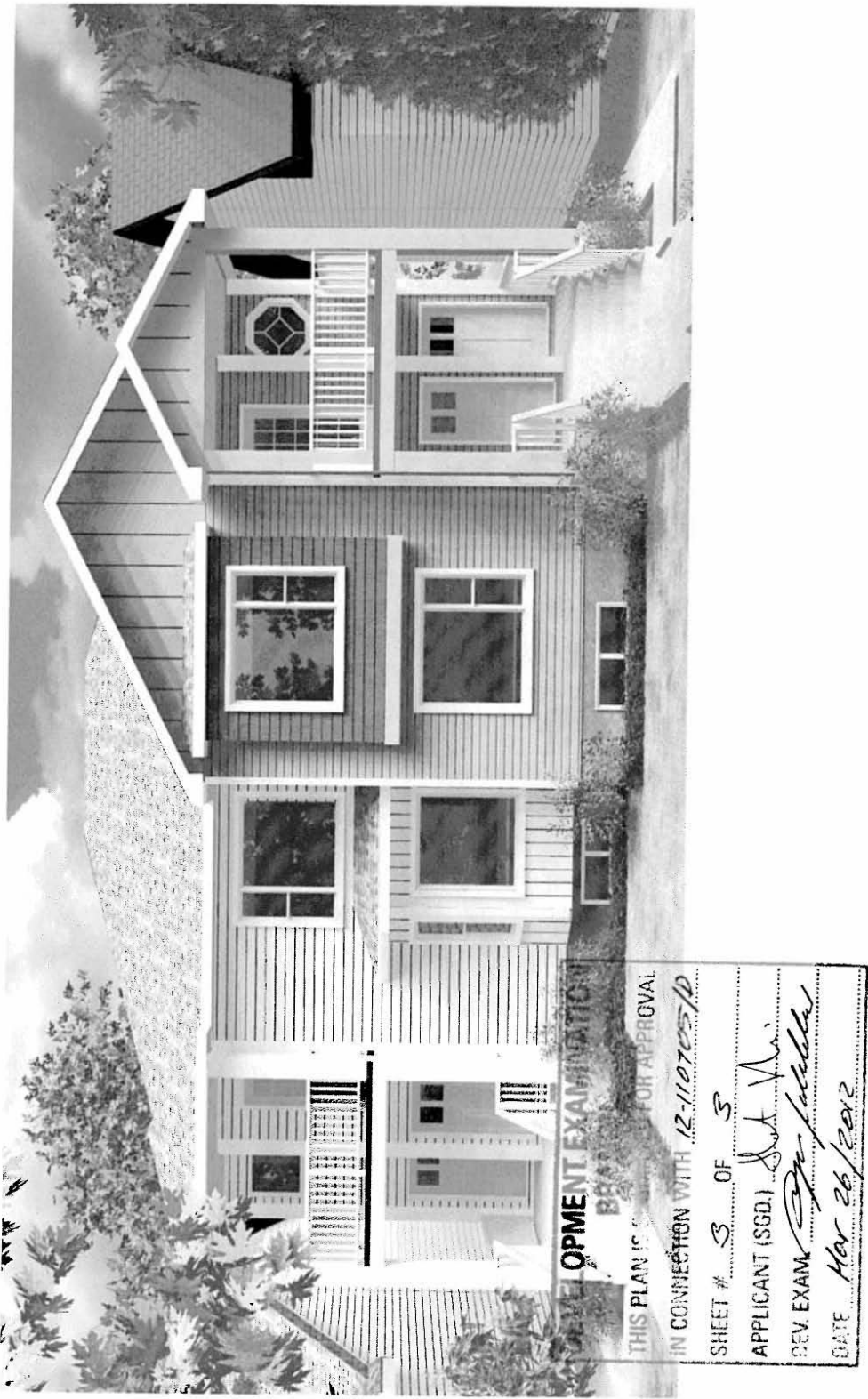


Exhibit "2" referred to in File DCU 110705A/2012D

April 18, 2012

City Clerk, City of Winnipeg
c/o Appeal Committee
Council Building, 510 Main Street
Winnipeg, Manitoba
R3B 1B9

Dear Sir/Madam

**RE: Conditional Use Order DCU 110705/2012D
108 Scotia Street, Winnipeg**

Please be advised that I want to appeal the order of Lord Selkirk-West Kildonan Community Committee which was issued on April 10, 2012 for the conditional use on the above noted property. The reason for appeal is that this is a good in fill project and I want to build four unit condo complex on the site. The City of Winnipeg has supported my recommendation but the committee declined the conditional use. We don't agree with the reasons stipulated in the conditional use order.

Yours truly,



Per: Paramjit Shahi
Fairview Custom Homes Ltd.

12 APR 19 P 3:58

RECEIVED
CITY CLERKS
WINNIPEG

Exhibit "1" referred to in File DCU 110705A/2012D



THE CITY OF WINNIPEG
CONDITIONAL USE ORDER
LORD SELKIRK-WEST KILDONAN COMMUNITY COMMITTEE

DCU 110705/2012D

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Eadie, Chairperson
Councillor Pagtakhan
Councillor Sharma

Hearing: April 10, 2012
North Committee Room
Council Building, 510 Main Street

Applicant: Fairview Custom Homes Ltd. (Paramjit Shahi)

Premises Affected: 108 Scotia Street

Legal Description: Lot 115/116 Block 1 Plan 228 2K, hereinafter called "the land"

Property Zoned: "R1-M" Residential Single Family - Medium District

Zoning Atlas Sheet: W26

Nature of Application: For a Conditional Use under The Winnipeg Zoning By-law No. 200/2006 to permit the establishment of a multi-family dwelling use under the proposed R2 zoning

It is the opinion of the Lord Selkirk-West Kildonan Community Committee that this application does not meet the statutory criteria of The City of Winnipeg Charter in that it:

- (a) is not consistent with Plan Winnipeg, and any applicable secondary plan;
- (b) creates 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;
- (d) is not compatible with the area in which the property to be affected is situated.

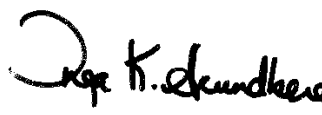
C.W. Charter Section 254 and Subsection 247 (3)

ORDER:

The Lord Selkirk-West Kildonan Community Committee orders that the Application for a Conditional Use under File DCU 110705/2012D is rejected.

DATE OF ORDER: April 12, 2012

CERTIFIED BY:



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 May 1, 2012
[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]
- (c) refer to Conditional Use Order DCU 110705/2012D, 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
Council Building, 510 Main Street
Winnipeg, Manitoba, R3B 1B9
Fax: 204-947-3452
Email: CLK-Appeals@winnipeg.ca

THE FOLLOWING PERONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

Brian Mansky
Paramjit Shahi, Fairview Custom Homes Ltd.

In Opposition:

Eldon Baker
Kory Bodnaryk
Harry Daase
Kaeryn Gregory
Helen and Ed Kolomaya
Cait Kopachena
Ricky Kraut
Doug Kuizenga
Robert Kuzak
Al Leighton
Jo-Ann Leighton
A. Yanuszewski
Peter Woloschiniwsky

For Information:

Nil

For the City:

Mr. J. Veitch, Acting Principal Planner, Planning, Property and Development Department