Agenda - Council - January 24, 2007

Report - Standing Policy Committee on Property and Development - January 9, 2007

Item No. 10 Rezoning - 206 McGregor Street
File DAZ 250/2005

STANDING COMMITTEE RECOMMENDATION:

On January 17, 2007, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A" for File DAZ 250/2005 dated November 1, 2005, to a "C2" Commercial District subject to the following:

   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 uses be restricted to:
         a. all "C1" permitted and conditional uses.
         b. Automobile, including motorcycle: Rental and Sales.

   B. That for the development of any building and/or signage, plans shall be submitted showing the location, design and materials of the proposed building and/or signage to the Lord Selkirk - West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

2. That a ten per cent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

Report - Standing Policy Committee on Property and Development - January 9, 2007

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

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

Report - Standing Policy Committee on Property and Development - January 9, 2007

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 17, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council

STANDING COMMITTEE RECOMMENDATION:

On January 9, 2007, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

Further, on January 9, 2007, the Standing Policy Committee on Property and Development considered an Inter-Office Memorandum dated December 29, 2006, submitted by Michael Robinson, Planner, Planning Property and Development Department outlining revised conditions of approval for the rezoning application for 206 McGregor Street under File DAZ 250/2005.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 21, 2006, the Lord Selkirk-West Kildonan Community Committee did not concur in the administrative recommendation and recommended to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A" for File DAZ 250/2005 dated November 1, 2005, to a "C2" Commercial District subject to the following:

    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 uses be restricted to:
            a. all "C1" permitted and conditional uses.
            b. Automobile, including motorcycle: Rental and Sales.

    B. That for the development of any building and/or signage, plans shall be submitted showing the location, design and materials of the proposed building and/or signage to the Lord Selkirk - West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and

Report - Standing Policy Committee on Property and Development - January 9, 2007

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

2. That a ten per cent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

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

On September 12, 2006, the Lord Selkirk-West Kildonan Community Committee adjourned the public hearing with respect to the application to its meeting on November 21, 2006, and, in the interim, requested the Administration to submit to the Councillor, Mynarski Ward, a further report outlining the manner in which the Department intends to proceed with respect to each of the automobile sales and vehicle display businesses in the Point Douglas and Mynarski Wards identified in the supplementary administrative report dated September 6, 2006.

On May 23, 2006, the Lord Selkirk-West Kildonan Community Committee adjourned the public hearing with respect to the application to its meeting scheduled for November 21, 2006, and, in

Report - Standing Policy Committee on Property and Development - January 9, 2007

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

the interim, requested the Administration to submit to the Lord Selkirk-West Kildonan Community Committee the following:

1. A listing of automobile sales and vehicle display areas in the Point Douglas and Mynarski Wards that are in contravention of The Winnipeg Zoning By-Law No. 6400/94, with specific reference to fencing violations.

2. The current status of enforcement for the properties identified in l. above.

On November 8, 2005, the Lord Selkirk-West Kildonan Community Committee adjourned the public hearing with respect to the application to its meeting scheduled for May 23, 2006, and in the interim, requested the following to occur:

1. The applicant to meet informally with representatives of the William Whyte Residents Association to clarify any misinformation with respect to the subject rezoning application and discuss any concerns they may have.

2. The applicant to develop and submit to the District Planner (Michael Robinson) a plan to mitigate the concerns raised by the William Whyte Residents Association in its communication dated November 8, 2005 (Exhibit "8") for the accompanying rezoning application under File DAZ 250/2005, as well as any additional concerns that may be raised at the above-referenced informal meeting, so as to make the automobile sales business use aesthetically pleasing and more compatible with the surrounding neighbourhood.

3. The Zoning Development Officer who accepted the development application for rezoning under File DAZ 214/2004 for the subject property to provide Committee with an explanation as to why it took four (4) years for the rezoning application to go to public hearing given that the application was filed on July 26, 2000 but only went to public hearing before the Lord Selkirk-West Kildonan Community Committee on May 18, 2004.

RE: **Rezoning - 206 McGregor Street**
File DAZ 205/2005 [c/r DAV 159782/2005D]

For submission to: **The Standing Policy Committee on Property and Development**

Prepared by: **Diane Timmins, Clerk,**
Lord Selkirk-West Kildonan Community Committee

Report date: **December 20, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 21, 2006, the Lord Selkirk-West Kildonan Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A", for File DAZ 250/2005 dated November 1, 2005, to a "C2" Commercial District, subject to the following:

    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 uses be restricted to:
            a. all "C1" permitted and conditional uses;
            b. Automobile, including motorcycle: Rental and Sales.

    B. That for the development of any building and/or signage, plans shall be submitted showing the location, design, and materials of the proposed building and/or signage to the Lord Selkirk - West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

2. That a ten per cent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

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

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reasons for its recommendation:

1. The applicant has agreed to abide by the original community requests to plant shrubs, erect a wrought iron fence, a proper 6 foot high wooden fence, and pave the site with asphalt.

2. Central Service & Sales Winnipeg. Ltd. has been operating a long established automobile sales business in the area for a number of years, and the applicant has submitted documentation demonstrating community support for the business.

PUBLIC HEARING SUMMARY

File: DAZ 250/2005 [c/r DAV 159782/2006D]

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

Public Hearing: November 21, 2006
September 12, 2006
May 23, 2006
November 8, 2005
West Committee Room, Council Building
510 Main Street

Applicant: John Prystanski

Subject:



LORD SELKIRK
WEST KILDONAN
COMMUNITY
APPLICANT : JOHN PRYSTANSKI
FILE : DAZ 250/05
PROPOSAL : To rezone the land shown outlined above from an "R2-T" TRANSITIONAL DISTRICT to a "C2" COMMERCIAL DISTRICT. **For information, phone Mr. M. Robinson, Planner at 986-3213.**

Premises Affected: 206 McGregor Street

Exhibits Filed:
1. Application dated October 4, 2005
2. Notification of Public Hearing dated October 7, 2005
3. Manitoba Status of Title 1856613

4. Letter of authorization dated September 21, 2005, from Orest Chorney, Central Service & Sales Winnipeg Ltd., to John Prystanski
5. Plan of subject property
6. Report from the Planning and Land Use Division dated November 1, 2005
7. Inspection Report
8. Communication from Annette Champion-Taylor, Co-Chair William Whyte Residents Association dated November 8, 2005, in opposition to the application
9. Presentation made by John Prystanski at the public hearing on November 8, 2005, in support of the application
10. Photographs (5) showing the subject property, two vacant lots fronting Magnus Avenue and McGregor Street, and Redwood Motors located at the corner of Redwood Avenue and McGregor Street, submitted by John Prystanski at the public hearing on November 8, 2005
11. Copy of development application filed under the original rezoning application for File DAZ 214/2004, submitted by John Prystanski at the public hearing on November 8, 2005
12. Letters of support (3) dated October 19, 2004 from the neighbours at 596 Magnus Avenue, 599 and 601 Manitoba Avenue, submitted by John Prystanski at the public hearing on November 8, 2005
13. Petition purporting to contain the signatures of twenty-five (25) area residents in support of the application, submitted by John Prystanski at the public hearing on November 8, 2005
14. Supplementary report from the Zoning and Permits Administrator dated May 18, 2006
15. Communication from Annette Champion-Taylor, Co-Chair William Whyte Residents Association dated May 23, 2006, in opposition to the application
16. Supplementary report from the Planning and Land Use Division dated September 6, 2006
17. Communication from Darlene, Ronald and Brett Overby dated November 20, 2006, in opposition to the application
18. Communication from Annette Champion-Taylor, Co-Chair William Whyte Residents Association dated November 21, 2006, in opposition to the application
19. Supplementary report from the Planning and Land Use Division dated November 15, 2006
20. Presentation made by Levette Demchuk, in opposition to the application, at the adjourned public hearing on November 21, 2006

21. Petition purporting to contain the signatures of eighty-three (83) area residents in opposition to the application, submitted by Levette Demchuk, in opposition to the application, at the adjourned public hearing on November 21, 2006

REPRESENTATIONS:

In Support:

John Prystanski
Orest Chorney, Central Service & Sales Winnipeg. Ltd.

In Opposition

Annette Champion-Taylor, Co-Chair, William Whyte Residents' Association
Levett A. Demchuk
Esther Foster
Rosemarie Mauer
Meranda Merlin
Darlene, Ronald and Brett Overby
Richard Page
Wade Rosenreter

For the City:

Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

November 8, 2005
John Prystanski, accompanied by Orest Chorney, Central Service & Sales Winnipeg. Ltd., were heard in support of the application. Mr. Prystanski read aloud from a prepared brief which he submitted and filed as Exhibit "9". He advised Committee that he read the report of the Manager of Planning and Land Use dated November 1, 2005 and did not concur in the administrative recommendation that the application not be proceeded with. He indicated the application was to rezone the subject property from an "R2-T" Residential District to a "C2" Commercial District and noted that Mr. Chorney was willing to accept the commercial zoning designation for a finite period of time, namely, ten (10) years, to allow him to continue operating his automobile sales

business, Central Service and Sales. He provided Committee with background information and the events leading to this application.

Mr. Prystanski requested approval of the rezoning for the following reasons:

1. As a result of an administrative oversight, it took four (4) years for the original rezoning application under file DAZ 214/2004 for 206 McGregor Street to be processed and go to public hearing. During that period of time, Mr. Chorney did everything that was required of him, and therefore concluded that a rezoning application was not required, the business had been legally established and no further action was necessary on his part. In this connection, Mr. Prystanski submitted a copy of the development application filed under the original rezoning application for File DAZ 214/2004, filed as Exhibit "11".

2. During the public hearings to consider the original rezoning application under File DAZ 214/2004, Committee was led to believe the local neighbourhood was in opposition to the application, when in fact, the neighbours whose properties immediately adjoin the subject property are supportive and endorse the proposed rezoning and the automobile sales use. In this connection, Mr. Prystanski submitted three (3) letters of support dated October 19, 2004 from the neighbours at 596 Magnus Avenue, 599 and 601 Manitoba Avenue, filed as Exhibit "12", and a petition purporting to contain the signatures of twenty-five (25) area residents in support of the application, filed as Exhibit "13".

3. This application complies with Plan Winnipeg, is compatible and complimentary to the intent and spirit of helping to support and improve older neighbourhoods that are in immediate need of services, and will be a benefit to the community. In this connection, Mr. Prystanski made reference to Policy Section 3B-05 of Plan Winnipeg which states the City will support the increase in commercial densification in areas that are of a commercial nature. Mr. Prystanski commented that given McGregor Street is a commercial street, the application should be approved.

4. The subject property was sold by the City to Mr. Chorney with the understanding that a commercial entity was purchasing the property and the intended use was to be commercial.

5. Mr. Chorney wishes to continue the business for which he purchased the subject land and is prepared to accept the commercial zoning designation for a finite period of time, namely ten (10) years, and has no desire to rezone the land for any other use.

6. Prior to the establishment of Central Service and Sales at the subject location, a derelict house, that was an eyesore to the community, was located on the property, and with the development of the property, the house was renovated to an office, as well as the adjoining vacant lot, which was weed infested and too small for any type of other development was cleaned up. The two parcels of land were consolidated to make it work for the existing automobile sales use business.

7. Central Service and Sales has been located in the community for the last twenty-six (26) years and the automobile sales business caters to the needs of the local immediate neighbourhood.

8. The precedent for an automobile sales use on McGregor Street has already been set inasmuch as a car lot (Redwood Motors) has been established at the corner of Redwood Avenue and McGregor Street for a number of years, as well as at McGregor Street and Polson Avenue.. In this connection, Mr. Prystanski submitted photographs (5) showing the subject property, two vacant lots fronting Magnus Avenue and McGregor Street, and Redwood Motors located at the corner of Redwood Avenue and McGregor Street, filed as Exhibit "10".

10. Inasmuch as there have been no complaints lodged against this business during the time it has operated at the subject location, this confirms the fact that the automobile sales use business has not adversely affected the surrounding area. In this connection, Mr. Chorney confirmed that had he received any complaints about his business, that he would have personally addressed same.

In response to Committee's question, Mr. Prystanski stated that in view of the concerns raised by the William Whyte Residents Association in its communication dated November 8, 2005, filed as Exhibit "8", Mr. Chorney would be willing to go above and beyond the standards to make the subject property more aesthetically pleasing to the neighbourhood and would be prepared to install perennials and small shrubs, as well as asphalting the driveway and parking lot.

Annette Champion-Taylor, on behalf of the William Whyte Residents Association, appeared in opposition to the application. She advised Committee she felt she was in an awkward position at this time given there appears to be some misinformation regarding the application, particularly with respect to the temporary period of time the applicant is now requesting for the rezoning. She stated that had the applicant contacted the William Whyte Residents Association prior to the public hearing rather than five minutes before the commencement of same, that the misinformation may have been clarified. She advised Committee the Association has never had a problem with the way Mr. Chorney has maintained his property, but that she was always of the impression the automobile sales use was an illegal use. In this connection, she questioned why the documentation that was presented this evening was not available at the last public hearing. Ms Champion-Taylor stated that in order to make the right decision, the Association must have the facts, and would prefer to have the application adjourned to allow her to take it back to the William Whyte Residents Association for further consideration and make an informed decision thereafter.

In rebuttal, Mr. Prystanski stated that he and Mr. Chorney had no problem meeting with the William Whyte Residents Association and confirmed Mr. Chorney was prepared to do something with the fencing on the property to alleviate the concerns of the William Whyte Residents Association. He also confirmed Mr. Chorney was willing to provide landscaping on the McGregor Street and Manitoba Avenue sides of the property and move the fence back in order to provide a better buffer zone. Mr. Prystanski commented they were agreeable to having

the application adjourned for the above purpose, but not to the month of May 2006, as suggested by Committee, and would prefer an adjournment of the application for one or two months instead. With respect to the allegation of the illegal use of the property for commercial purposes, Mr. Prystanski drew Committee's attention to the fact that the original rezoning application for "C2" zoning was made by Central Sales and Service in the month of July, 2000.

May 23, 2006

At the outset, Councillor Lazarenko, indicated he was going to adjourn the application once again in order to give the Administration time to compile a listing of automobile sales and vehicle display areas in the Point Douglas and Mynarski Wards that are in contravention of The Winnipeg Zoning By-Law No. 6400/94, with specific reference to fencing violations, and the current status of enforcement for those properties.

John Prystanski, accompanied by Orest Chorney, indicated they were agreeable to the adjournment and would welcome the opportunity to participate in the compilation of the above.

September 12, 2006

John Prystanski, accompanied by Orest Chorney, appeared in support of the application. Mr. Prystanski advised Committee he did not have an opportunity to read the supplementary report submitted by the Planning and Land Use Division (Exhibit 16) inasmuch as he just obtained a copy from the Clerk. He also stated it was his understanding that he would have been consulted and provided with an opportunity for input into the compilation of the administrative report on the automobile sales businesses operating in violation of the Winnipeg Zoning By-law No. 6400/94 in the Point Douglas and Mynarski Wards prior to it being submitted to the Community Committee. Councillor Lazarenko, Mynarski Ward, asked whether the applicant and his client would be agreeable to a further adjournment given that he wanted the Administration to provide additional information that was not included in the report, to which Mr. Prystanski responded in the affirmative.

Annette Champion-Taylor, Co-Chair, William Whyte Residents Association, appeared in opposition to the application and expressed disappointment at the possibility of the public hearing being further adjourned and stated it is time for Community Committee to make a decision in this matter. She noted that the automobile sales business has been operating illegally at the subject premises for a number of years, and that it should be the City's responsibility to pursue prosecution proceedings. Mrs. Champion-Taylor questioned what has transpired since the last adjourned public hearing and stated the view that Mr. Chorney has made no real effort to invest in the community, or make any improvements to the subject property to make it fit in better with the surrounding residential neighbourhood. She commented that the landscaping plans for the property previously shown to her were substandard and that she was disappointed in Mr. Chorney's reluctance to surface the gravel parking lot. Mrs. Champion-Taylor concluded by saying the William Whyte Residents' Association stands very firm on this matter and feels a used car lot is not the best use of the subject property and that the business should be relocated elsewhere. She added there are already many used car lots in the area.

In rebuttal. Mr. Prystanski stated that his client is not opposed to improving the business and is willing to asphalt the parking lot, erect a fence and install proper landscaping. In terms of landscaping details, Mr. Prystanski advised Committee that the William Whyte Residents' Association was asked the type of landscaping that would be acceptable to them, to which they responded they did not want heavy shrubbery. In response to the suggestion that the automobile sales business should be relocated elsewhere, Mr. Prystanski asked where Mr. Chorney should relocate his business.

November 21, 2006

John Prystanski, accompanied by Orest Chorney, Central Service & Sales Winnipeg. Ltd., were heard in support of the application. Mr. Prystanski drew Committee's attention to the fact that Mr. Chorney, has been operating a used car sales business in the North End of Winnipeg for the last thirty (30) years and has been a good corporate citizen. He reminded Committee of the fact there are various used car lots operating in the area and Mr. Chorney's is only one of them. Mr. Prystanski advised Committee that he has read the administrative supplementary report dated November 15, 2006, and agreed there should be minimum standards for used car lots. The Chairperson read aloud the administrative supplementary report, which set out recommended conditions of approval in the event Committee did not concur in the administrative recommendation. In this connection, Mr. Prystanski indicated Mr. Chorney's willingness to accept same, with the exception of the requirement for the installation of a wrought iron fence on the north side of the property where the back lane backs onto Magnus Avenue. In this connection, Mr. Prystanski stated Mr. Chorney would prefer to install a light-proof fence instead. In this connection, the Planner stated he was recommending wrought-iron fencing on three sides of the property, and noted that in the event a positive recommendation was forthcoming from this Committee, as a condition of approval, the applicant would be required to put together a development plan for the subject property for the review and approval of the Lord Selkirk-West Kildonan Community Committee. Mr. Prystanski reiterated the ten (10) reasons which he put forward on November 8, 2005, as to why the rezoning should be approved, and reminded Committee of the petition on file which he submitted purporting to contain the signatures of twenty-five (25) area residents in support of the application, filed as Exhibit 13, together with the three (3) letters of support dated October 19, 2004 from the neighbours at 596 Magnus Avenue, 599 and 601 Manitoba Avenue, filed as Exhibit 12.

Richard Page, on behalf of the William Whyte Residents Association, appeared in opposition to the application and advised Committee he was opposed to the continued operation of the used car sales lot which did not fit in with the character of the area. Mr. Page questioned the need for more commercial uses in the residential community and put forward the opinion the used car sales business was cosmetically unappealing. Personally speaking, Mr. Page also stated he did not like the chain link fencing currently on the property and was concerned with the impression it gave. Mr. Page requested that there finally be closure to this application.

Levett Demchuk, also appearing in opposition to the application, submitted and read into the record her presentation, filed as Exhibit 20. Ms Demchuk also submitted a petition purporting to contain the signatures of eighty-three (83) area residents in opposition to the application, filed as Exhibit 21. In response to Councillor Pagtakhan's question as to whether she was agreeable to

the proposed recommended conditions of approval, Ms Demchuk put forward the opinion that it would be "too little too late", particularly in view of the fact that Mr. Chorney has done nothing to the property to date to make it better for the community.

Wade Rosenreter, on behalf of the William Whyte Residents Association, also appeared in opposition to the application for the following reasons:

1. Mr. Chorney has been operating illegally on the subject property for a number of years;
2. The William Whyte Residents Association is trying to revitalize the area and a used car sales business is not compatible with the residential community.

Meranda Merlin, on behalf of the William Whyte Residents Association, also appeared in opposition to the application and questioned what assurances were there that he applicant would complete the recommended works in a timely fashion, given that his past performance has demonstrated he is not really interested in investing in the aesthetics of the subject property. Ms Merlin was of the view "C2" zoning did not belong on McGregor Street and questioned what would happen to the subject property in the event it was sold. In this connection, the Planner stated there is a recommendation to restrict the "C2"zoning to all "C1" permitted and conditional uses; as well as automobile, including motorcycle: rental and sales.

Annette Champion-Taylor, Co-Chair, William Whyte Residents Association, also appearing in opposition to the application, submitted and read into the record her communication, filed as Exhibit 18. Ms Champion-Taylor expressed concern regarding the supplementary Planner's report submitted at this meeting, and questioned why it wasn't shared with the William Whyte Residents Association prior to this public hearing. She reiterated the concern expressed by Ms Merlin that the proposed rezoning is not a good thing for the community given Mr. Chorney's past performance and the fact there are enough used car sales business in the area. Ms Champion-Taylor also stated Mr. Chorney could have invested more in the subject property to make it more compatible and aesthetically pleasing to the residential community. She urged Committee to make a decision in this matter and encouraged Committee to concur in the administrative recommendation and reject the application.

In rebuttal. Mr. Prystanski stated his client has demonstrated he has been a good neighbour as evidenced by the petition and letters in support of the application submitted in this matter. He also stated it has always been Mr. Chorney's intention to asphalt the parking lot and noted it would be in Mr. Chorney's best interest to upgrade his property and be a part of the community. Mr. Prystanski stated this application is a component and fits in with Plan Winnipeg and in summation, he urged Committee to recommend approval of the rezoning application.

Exhibit "19" referred to in File DAZ 250/2005 [c/r DAV 159782/2005D]

Winnipeg

Date: November 15, 2006

To: Lord Selkirk-West Kildonan Community Committee

From: Michael Robinson, AICP

Planning and Land Use Division

RE: **206 MCGREGOR (DAZ 250/05)**

CONDITIONS OF APPROVAL

The Planning and Land Use Division does not support this application for all the reasons outlined in the Administrative Report. However, should the Community Committee wish to approve the above referenced application, the following conditions should be considered:

Recommended Conditions of Approval

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 250/05, attached hereto and dated November 1, 2005, to a "C2" Commercial District, subject to the following:

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:

1. That uses be restricted to:
   (a) all "C1" permitted and conditional uses;
   (b) Automobile, including motorcycle: Rental and Sales

2. That for the development of any building and/or signage, plans shall be submitted showing the location, design, and materials of the proposed building and/or signage to the Lord Selkirk – West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property, and Development.

II. That a ten (10) per cent dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

III. That, in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

IV. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

V. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

VI. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

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

Schedule "A"

Schedule "A" to the report to the Lord Selkirk-West Kildonan Community Committee for file # DAZ 250/05 dated November 1, 2005.

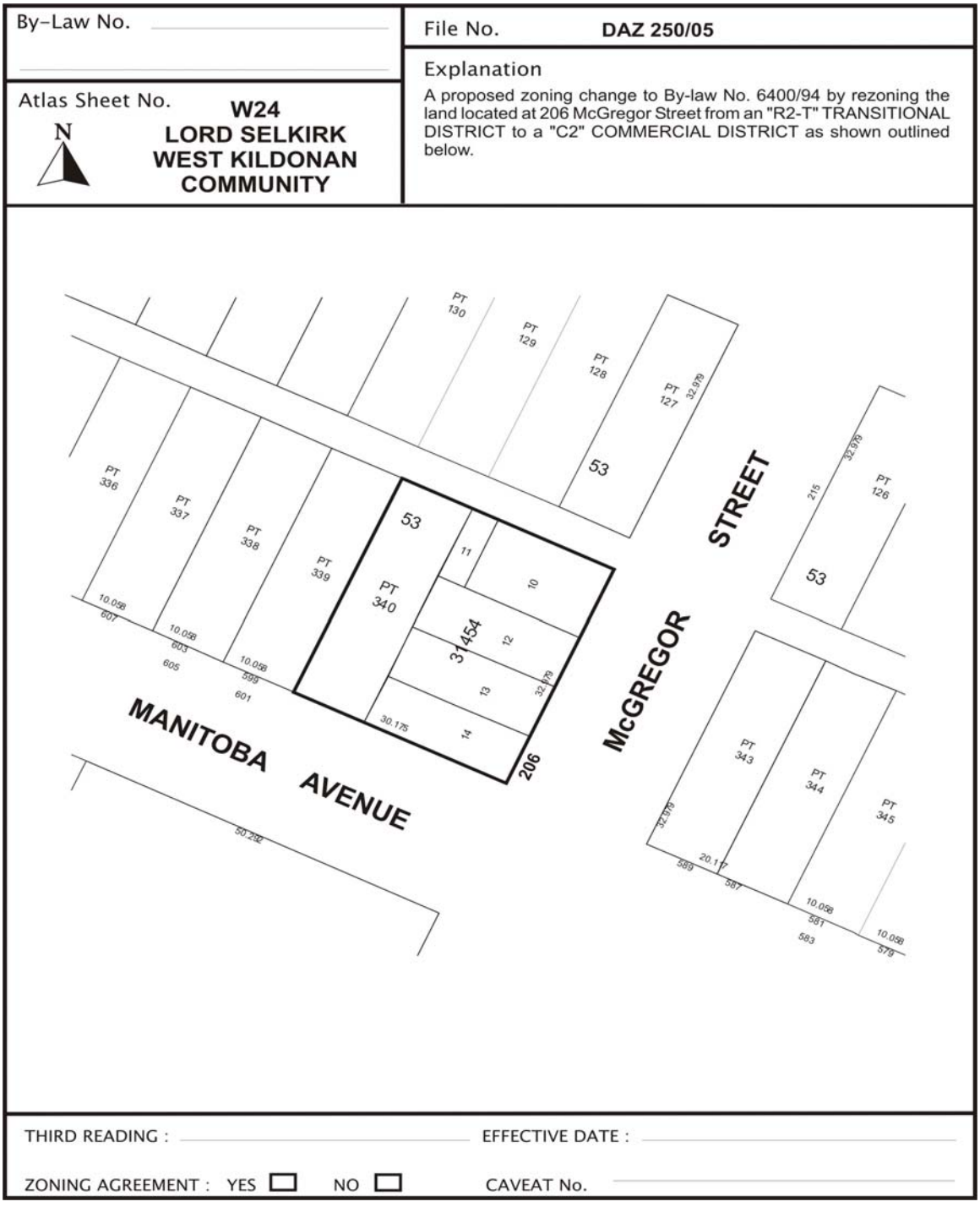

Exhibit "14" referred to in File DAZ 250/2005

MEMORANDUM

Planning, Property and Development Department

Development and Inspections
Zoning and Permits Branch
Unit 31, 30 Fort Street

Winnipeg

Date: May 18, 2006

To: Lord Selkirk-West Kildonan Community Committee

From: Martin Grady, Zoning and Permits Administrator

RE: **206 MC GREGOR STREET**
FILE DAZ 214/2004 & DAV 159782 2005D

With reference to the request of the Lord Selkirk-West Kildonan Community Committee for information regarding the length of time taken for the above referenced applications to be scheduled for a public hearing.

The following is a synopsis of the timeline associated with these applications:

2000

- Zoning and Permits Branch becomes aware of the unlawful use of the property for automobile sales.

- Owner is contacted as part of enforcement procedures and is informed of the need to cease the use or apply to re-zone the subject property. An application to rezone the land is submitted.

- During discussions the owner indicates that the purchase of an adjacent vacant lot from the City is pending and that he intends to consolidate it with the subject property and expand the operation.

- It is agreed that the rezoning application not commence until the purchase of adjacent lands has been completed with the City in order to process one application to rezone the entire site when consolidation of the adjacent lot is complete.

- The rezoning application submitted is therefore deemed to be incomplete pending receipt of a new title that contains the lot the owner intends to purchase and no further processing occurs.

- No further enforcement action is taken pending the sale of the adjacent lot by the City to the owner and it is agreed that once the land purchase is complete, the owner will immediately contact the Zoning and Permits Branch to commence the rezoning application process.

2002

- Purchase of the adjacent lot is completed and a new title consolidating the lands into one holding is issued.

- The owner does not contact the City to proceed with the rezoning application and continues to operate the automobile sales business on the new larger site in contravention of the Bylaw.

2004

- The owner approaches the City for approvals in order to comply with new requirements by the Province through the automobile Dealer's Licence.

- The rezoning application submitted in 2000 is now re-activated since a new title is finally submitted by the owner.

- The rezoning application is denied by the Community Committee in July, 2004.

- The owner continues to operate the business unlawfully.

2005

- Charges are laid against the owner in the spring for the unlawful use of the subject property in contravention of the bylaw.

- A new application to rezone the lands is submitted in the summer of 2005 after the one year prohibition period for re-application has passed.

- The application comes to Community Committee in November and is laid over until May 2006.

Summary

The length of time between submission of the rezoning application in 2000 and the hearing in 2004 is the result of the time it took to complete the purchase of the adjacent lot from the City and the failure of the applicant/owner to inform the Zoning and Permits Branch that this had taken place to allow for re-sumption of processing of the application.

Exhibit "6" referred to in File DAZ 250/2005

Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: November 1, 2005
File: DAZ 250/05
Related Files: DAZ 214/04
Subject: An application has been received from Mr. John Prystanski to amend By-Law No. 6400/94 by rezoning the land shown below from a "R2-T" Two Family Residential District to a "C2" Commercial District to allow the continued maintenance of an automobile sales use.

Location: 206 McGregor Street



Applicant: Mr. John Prystanski
Owner: Central Service and Sales Wpg Ltd. (Orest Chorney)

Recommendation: Denial

Report Summary:

- The applicant has been established illegally since 1999;
- The City is in the process of taking legal action against the owner;
- A similar request to rezone this property to "C2" Commercial was rejected by the Lord Selkirk – West Kildonan Community Committee in 2004;
- The request does not comply with Plan Winnipeg policy;
- The use is not compatible with the surrounding neighbourhood;
- The proposed zoning category is not consistent with the zoning of adjacent properties;
- The proposed use is allowed as either a permitted use or a conditional use on higher order streets in the immediate area.

Site Description

The subject property, which is zoned "R2-T" Two-Family Residential, is located on McGregor Street between Manitoba Avenue and Magnus Avenue in the William Whyte neighbourhood of the Mynarski Ward. The property, which measures 10,692 square feet, is occupied by an automobile sales lot, which has been illegally established since 1999.

Surrounding Land Use

North: Across public lane, single and two family dwellings zoned "R2-T"
South: Across Manitoba Avenue, multiple family dwellings zoned "RM-6".
East: Across McGregor Street, Single-family dwellings zoned "R2-T"and commercial land zoned "C1".
West: Single-family dwellings zoned "R2-T".

Background

206 McGregor

In 1999, the applicant established an auto sales use at 206 McGregor. This use was established illegally, without City approval, in an "R2-T" Residential District. In 2004, the applicant applied to have the property rezoned to "C2" Commercial to permit the use to remain at that location. **This application was rejected by the Lord Selkirk –West Kildonan Community Committee.** Despite this, the applicant has not ceased operation of his illegal use and the City is in the process of taking legal action against the owner.

215 McGregor
The applicant has maintained an auto repair business at the subject location for several years. The business is considered non-conforming because it was established prior to By-law 6400/94, which prohibits the establishment of an auto repair use in the "C1" Commercial District.

The applicant has also maintained a small auto sales business at the same location, which was similarly classified as a non-conforming use by the Zoning Administrator earlier this year. In light of this, the owner has a legal right to continue the sale of automobiles from this location.

Description of the Proposed Development

The applicant intends to rezone the subject property from a "R2-T" Two Family Residential District to a "C2" Commercial District to allow the maintenance of an automobile sales use.

Plans submitted by the applicant indicate a small, one storey office building is located on the corner of Manitoba Avenue and McGregor Street. The remainder of the subject property is a vehicle display area with a crush rock surface. The perimeter of the site is fenced with a 6-foot chain link fence with a gate to provide access from McGregor Street.

Analysis

The Planning and Land Use Division recommends that the application be rejected for the following reasons:

Plan Winnipeg
The automobile-oriented nature of the proposed rezoning is contrary to the "main street" pedestrian oriented nature of McGregor Street. The majority of buildings on McGregor are located immediately adjacent to the street, and/or pedestrian-oriented in design, function, scale, and character. The proposed automobile sales use is contrary to this pedestrian-oriented character, with a vehicle display area abutting the street. The overall character of the proposed land use is not consistent with a "*mutually supportive use*" (Policy 3A-01 ii), "*compatible mixed-use*" or "*low intensity ancillary use*" (Policy 3B-01 ii) to the existing neighbourhood commercial uses in the area. Moreover, the overall automobile oriented character of the proposed land use does not "*enhance neighbourhood character*", nor is it an "*incremental expansion of commercial uses consistent with the general character of the adjacent neighbourhood*" (Policy 3B-04 ii)

Zoning and Land Use
A "C2" commercial district, under By-Law 6400/94 Section 700, is described as "intended to regulate more intensive commercial sites that do not have a local or neighbourhood orientation." These land uses tend to cater to a community wide market. This zoning category is common throughout the City of Winnipeg, especially along major transportation corridors such as McPhillips Street, Portage Avenue, Kenaston Boulevard, and Pembina Highway.

In that vein, the Planning and Land Use Division feels that the proposed category of commercial land is not consistent with adjacent properties and not compatible with the surrounding neighbourhood. With that said, the immediate neighbourhood offers various other locations where an auto sales use may be appropriate. For instance, there is vacant and underutilized commercial land zoned "C1.5" Commercial along both Selkirk Avenue and Main Street, where auto sales are a conditional use, and there is vacant and underutilized land along McPhillips Street, where auto sales are a permitted use.

Recommendation

The Planning and Land Use Division recommend denial for the following reasons:

- A similar request to rezone this property to "C2" Commercial was rejected by the Lord Selkirk – West Kildonan Community Committee in 2004;
- The request does not comply with Plan Winnipeg policy;
- The use is not compatible with the surrounding neighbourhood;
- The proposed zoning category is not consistent with the zoning of adjacent properties;
- The proposed use is allowed as either a permitted use or a conditional use on higher order streets in the immediate area.

Recommended Conditions of Approval

I. That file DAZ 250/05, as shown on Schedule "A" attached hereto, and dated, November 1, 2005, to a "C2" Commercial District **NOT BE PROCEEDED WITH.**

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

Report Prepared by: Michael Robinson, AICP
PPD File # 3.302

Schedule "A"

By-Law No. _____

File No. **DAZ 250/05**

Atlas Sheet No. **W24**

N

LORD SELKIRK WEST KILDONAN COMMUNITY

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 206 McGregor Street from an "R2-T" TRANSITIONAL DISTRICT to a "C2" COMMERCIAL DISTRICT as shown outlined below.



Schedule "A" to the report of the Lord Selkirk/West Kildonan Community Committee for File No. DAZ 250/05, dated November 1, 2005

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

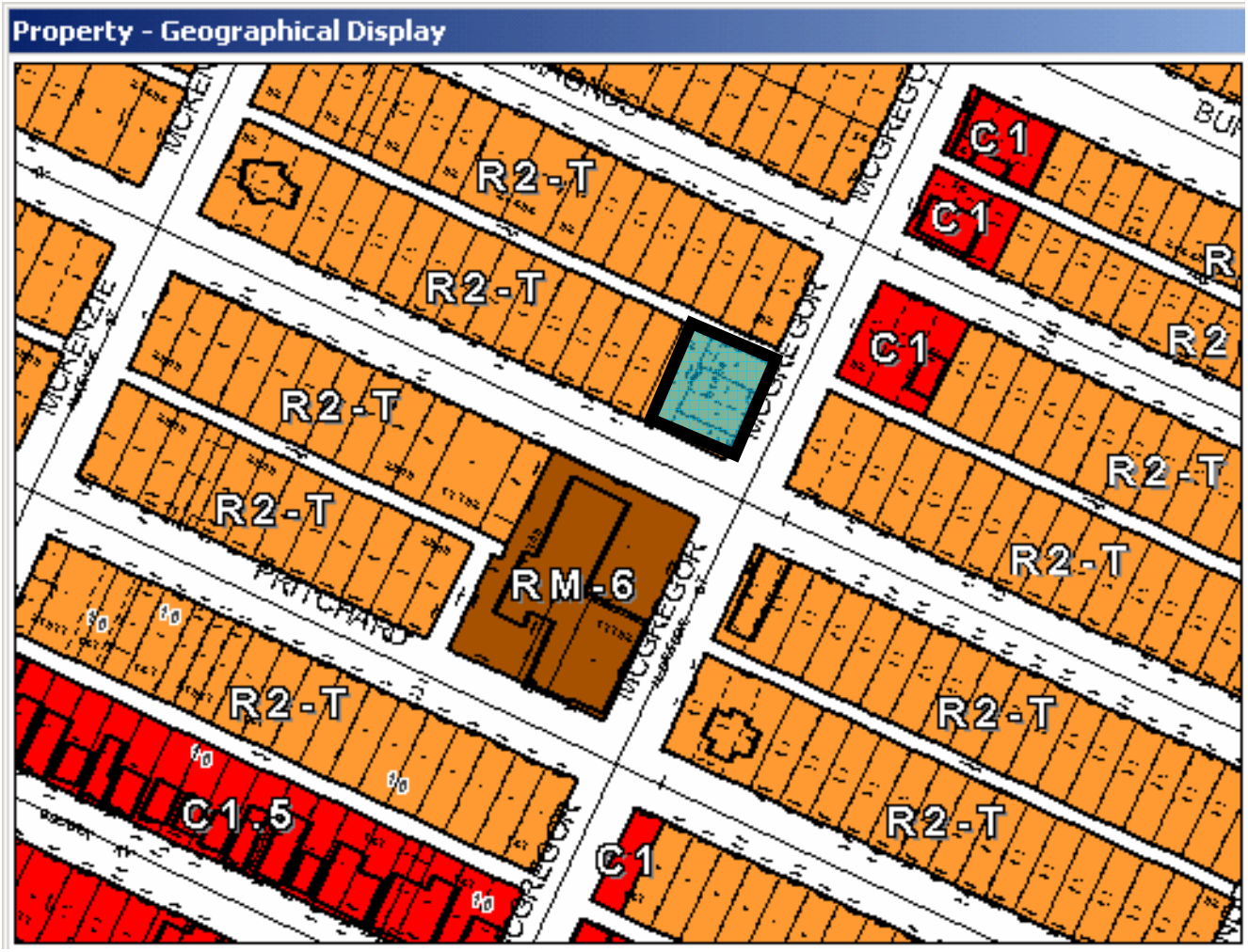

Figure 1: Existing zoning for subject property and surrounding area

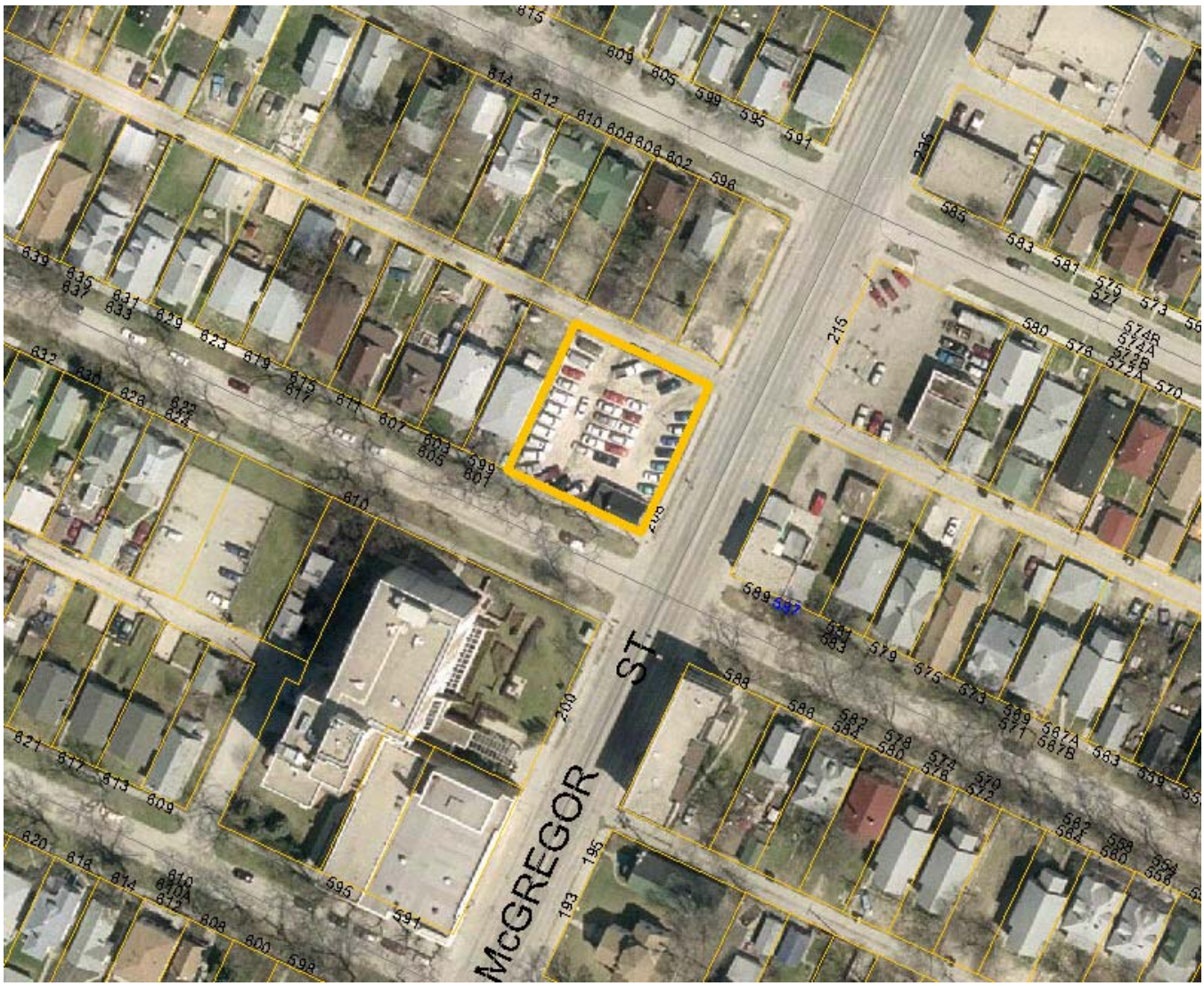

Figure 2: Aerial Photo (Flown in 2002)

INTER-OFFICE MEMORANDUM

Planning, Property and Development Department

Planning and Land Use Division
Unit 15, 30 Fort Street

Winnipeg

Date: December 29, 2006

To: Lord Selkirk-West Kildonan Community Committee

From: Michael Robinson, AICP

Planning and Land Use Division

RE:

206 MCGREGOR (DAZ 250/05)

CONDITIONS OF APPROVAL

REVISED
Revisions in bold and italics

The Planning and Land Use Division does not support this application for all the reasons outlined in the Administrative Report. However, should the Community Committee wish to approve the above referenced application, the following conditions should be considered:

In light of the fact that the applicant has been in contravention of Zoning By-Law 6400/94 for seven years (since 1999) and is currently being prosecuted by the City for zoning violations, the Planning and Land Use Division is recommending that two changes be made to the conditions of approval recommended by Community Committee.

1. ***That, in condition IV, the time given to enact the By-law be changed from two (2) years to one (1) year. The reason, as stated above, is that the use has been operating illegally since 1999, and for that reason, the By-law should be enacted as expeditiously as possible.***
2. ***In light of the fact that the applicant has not shown a willingness to comply with City zoning regulations in the past, as indicated by the past zoning enforcement action taken on the property, it is recommended that in Condition III, several conditions be satisfied prior to the By-law proceeding to Council. These conditions, which are in the corresponding DAV order as well (DAV 05-159782/D), will hold the applicant accountable for complying with the conditions of approval.***

<u>Recommended Conditions of Approval</u>

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 250/05, attached hereto and dated November 1,

2005, to a "C2" Commercial District, subject to the following:

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:

1. That uses be restricted to:
   (a) all "C1" permitted and conditional uses;
   (b) Automobile, including motorcycle: Rental and Sales

3. That for the development of any building and/or signage, plans shall be submitted showing the location, design, and materials of the proposed building and/or signage to the Lord Selkirk – West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property, and Development.

II. That a ten (10) per cent dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in the market value of the land.

III. That the following conditions shall be satisfied before the By-Law proceeds to Council

IV. That a wrought iron style fence, shall be installed along the entire north, south and east sides of the subject property by May 31, 2007 to the satisfaction of the Director of Planning, Property, and Development

V. That a solid wooden fence measuring a minimum of 5 feet in height to a maximum of 6.5 feet in height shall be installed along the west side of the subject property by May 31, 2007 to the satisfaction of the Director of Planning, Property, and Development

VI. That landscaping shall be installed in substantial conformanace with the plans submitted and identified as Exhibit 1 for File No. DAV 05-159782/D dated November 21, 2006 by May 31, 2007.

VII. That the parking lot shall be asphalted by July 31, 2007.

IV. That, in the event that the by-law is not enacted ***within twelve (12) months*** after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twelve (12) month period and the extension is subsequently approved by Council.

V. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

VI. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

VII. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

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

Schedule "A"

Schedule "A" to the report to the Lord Selkirk-West Kildonan Community Committee for file # DAZ 250/05 dated November 1, 2005.

By-Law No. _____

File No. **DAZ 250/05**

Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 206 McGregor Street from an "R2-T" TRANSITIONAL DISTRICT to a "C2" COMMERCIAL DISTRICT as shown outlined below.

Atlas Sheet No. **W24**

N

LORD SELKIRK WEST KILDONAN COMMUNITY



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____