Agenda – Council – September 27, 2012

Report – Executive Policy Committee – September 5, 2012

Item No 1. Rezoning – 328 Hampton Street
(St. James-Brooklands Ward)
File DAZ 211/2012

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 5, 2012, the Executive Policy Committee concurred in the recommendation of the Assiniboia Community Committee and submits the following to Council:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 200/2012 dated March 6, 2012 to an "R2" Residential Two-Family 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 plans shall be submitted showing the location and design of landscaping, signage, and fencing to the Director of Planning, Property, and Development and the Assiniboia 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 percent (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 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 Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

Report – Executive Policy Committee – September 5, 2012

5. That the zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

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

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

Report – Executive Policy Committee – September 5, 2012

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 5, 2012, the Executive Policy Committee concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 10, 2012, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

On June 7, 2012, the Assiniboia Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on July 10, 2012 at 5:00 p.m. in the Council Building, 510 Main Street.

RE: **Rezoning – 328 Hampton Street**
File DAZ 211/2012

For submission to: **Executive Policy Committee**

Prepared by: **Danielle Caron, Committee Clerk**
Assiniboia Community Committee

Report date: **July 11, 2012**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 10, 2012, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 200/2012 dated March 6, 2012 to an "R2" Residential Two-Family 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 plans shall be submitted showing the location and design of landscaping, signage, and fencing to the Director of Planning, Property, and Development and the Assiniboia 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.

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

5. That the zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

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

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

The Assiniboia Community Committee provided the following supporting reasons for its recommendation:

1. The business has been in operation for a number of years and the issue with respect to signage has been addressed.

PUBLIC HEARING SUMMARY

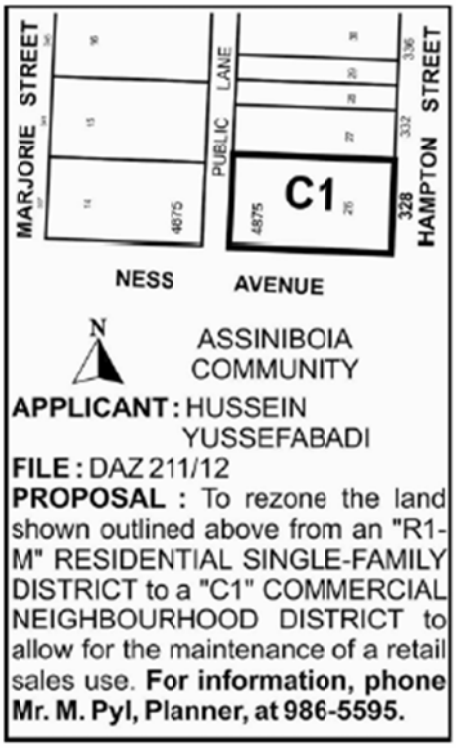
File: DAZ 211/2012

Before: Assiniboia Community Committee
Councillor Havixbeck, Chairperson
Councillor Fielding
Councillor Nordman

Public Hearing: July 10, 2012
June 7, 2012
Council Building, 510 Main Street

Applicant: Hussein Yussefabadi

Subject:



Premises Affected: 328 Hampton Street

Exhibits Filed:
1. Application dated March 29, 2012
2. Notification of Public Hearing dated April 23, 2012
3. Manitoba Status of Title 1343394
4. Surveyor's Building Location Certificate and sketch dated September 7, 2006
5. Plans (3 pages)

6. Report from the Planning and Land Use Division dated May 30, 2012
7. Inspection Report
8. Notice of Adjournment dated June 12, 2012
9. Audio Recording of representations of public hearing held on July 10, 2012

REPRESENTATIONS:

In Support:

Hussein Yussefabadi

In Opposition:

Nil

For Information:

Nil

For the City:

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

Exhibit "6" referred to in File DAZ 211/2012

ADMINISTRATIVE REPORT

Title: DAZ 211/2012 – 328 Hampton St

Issue: For consideration at the public hearing for a rezoning for a retail sales use

Critical Path: Assiniboia Community Committee 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

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 200/2012 dated March 6, 2012 to an "R2" Residential Two-Family 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 plans shall be submitted showing the location and design of landscaping, signage, and fencing to the Director of Planning, Property, and Development and the Assiniboia 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 percent (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 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 Director of Legal Services and City Solicitor be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

5. That the zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

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

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

REASON FOR THE REPORT

The Report is being submitted for the 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 land will be rezoned from R1-M to C1 and a retail sales use will be permitted.

CONSULTATION

In preparing this Report there was consultation with:

N/A

SUBMITTED BY

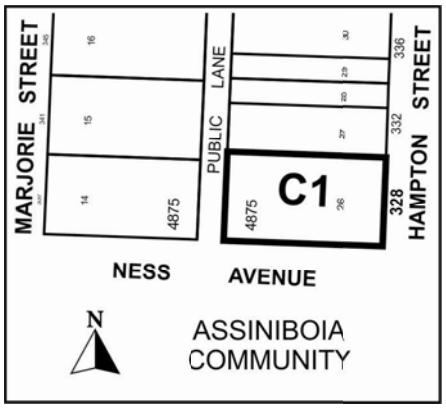
Department	Planning, Property and Development
Division	Urban Planning
Prepared by	Michael Pyl
Date:	May 30, 2012
File No.	DAZ 211/2012

APPENDIX 'A'

DATE: May 30, 2012
FILE: DAZ 211/2012
RELATED FILES:
COMMUNITY: Assiniboia
NEIGHBOURHOOD #: 2.203

SUBJECT: To rezone the subject land from an "R1-M" Single-Family Residential District to a "C1" Commercial Neighbourhood District

LOCATION: 328 Hampton
LEGAL DESCRIPTION: LOT 26 PLAN 4875 33 ST JA



APPLICANT: Hussein Yussefabadi
742 Lindenwood Dr W
Winnipeg MB R3P 2S1

OWNER: Same as applicant

RECOMMENDATION: Approval

SITE DESCRIPTION

- The subject property is located on the north side of Ness Av between Hampton St and Marjorie St in the King Edward neighbourhood of the St James-Brooklands ward.
- The subject property is 5,022 sq. ft. in area, with 54 ft. of frontage along Hampton and 93 ft. of frontage along Ness. It is currently zoned "R1-M" Residential Single Family district, and is occupied by a single family dwelling being used as a home-based business, the Leather Master.
- Adjacent properties include single family dwellings to the north, west, and south zoned "R1-M" and a commercial strip mall to the east zoned "C1" Commercial Neighbourhood district.

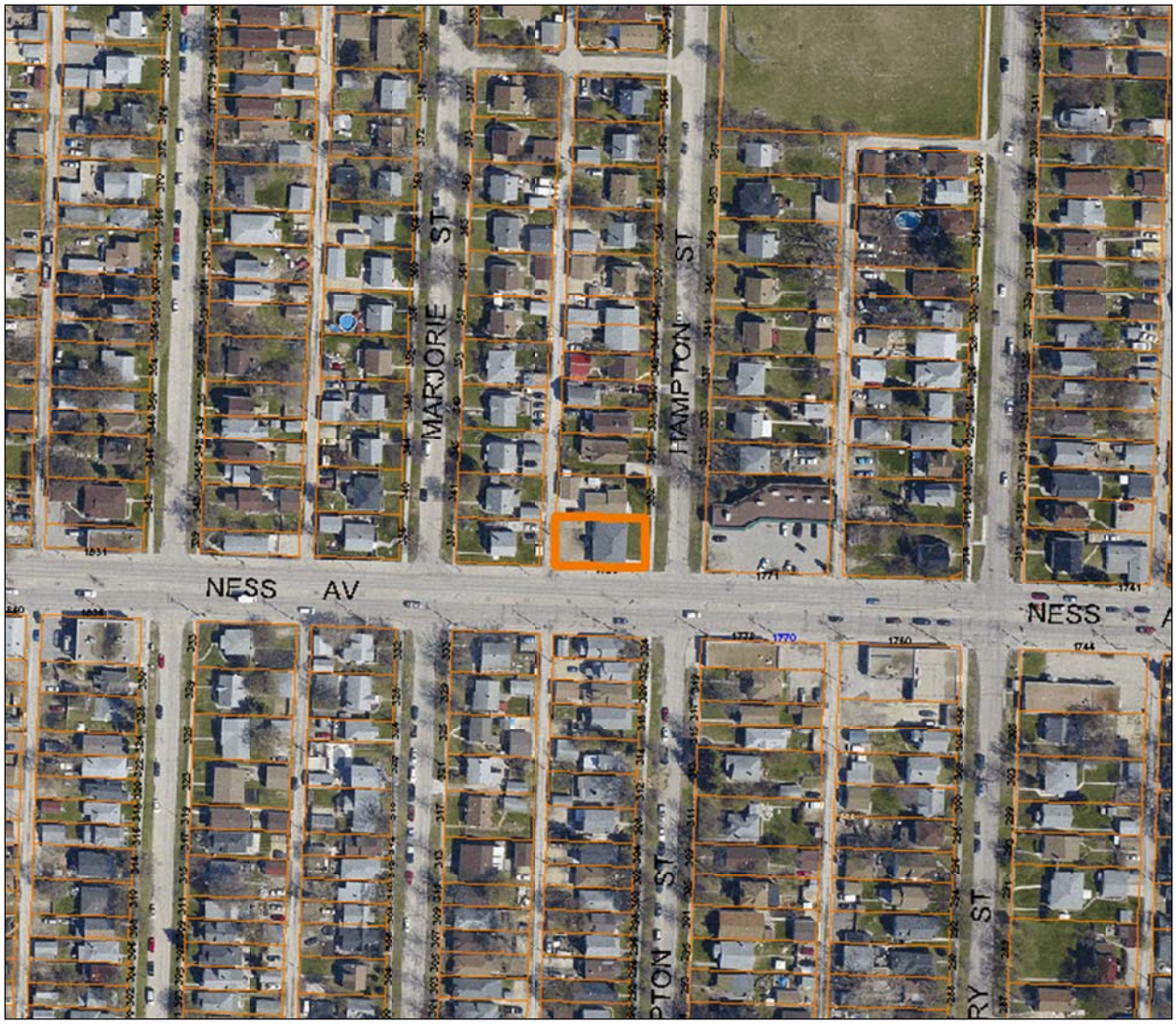


Figure 1: Site map of subject property and surrounding neighbourhood

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant intends to maintain the existing retail sales use by rezoning the subject property from “R1-M” Residential Single Family district to “C1” Commercial Neighbourhood district.
- The subject property is currently occupied by Leather Master Custom Tailoring. It has been operating on this site since 1994, when the City initially issued a home occupation permit. According to a report from the City’s Development and Inspections Division, it has been operating without a residential component since 2006.
- The applicant is not proposing any interior or exterior alterations to the existing building.

BACKGROUND

- In 1994, the City of Winnipeg granted a home-based business permited for a tailoring use.

- On November 23, 1995, the Committee on Planning and Community Services granted a variance (DAV 721A/95B) on the land for a 9.7 sq. ft. free-standing sign to advertise the home occupation. It was approved subject to the following conditions:
    - That the free-standing sign shall be non-illuminated.
    - That the said sign shall be a maximum height of 5 ft.
    - That the said sign shall be located a minimum of 5 ft. from the property lines.
    - That the Variance granted by this order shall terminate upon cessation of the home occupation by the applicant.
- In 2006, a demolition permit was granted to demolish the existing 625 sq. ft. 1 ½ storey single family dwelling on the subject property after it was damaged by a fire. Permits were granted for the construction of a 1,300 sq. ft. 1 storey single family dwelling in concurrence.
- As per a report from the City's Development and Inspections Division, the applicant ceased living on the property once the new dwelling was constructed in 2006.

ANALYSIS AND ISSUES

OurWinnipeg and Complete Communities Direction Strategy

- The Complete Communities Direction Strategy is one of four direction strategies supporting OurWinnipeg, the city's new long-range development plan, and is intended to gain statutory authority as a secondary plan. The strategy is intended to serve as a "playbook" to guide land use and development in Winnipeg. It received third reading at City Council on July 20, 2011, and became effective on August 17, 2011.
- According to the Complete Communities Urban Structure Map, Ness Av would be considered either a Community or Neighbourhood Mixed Use Corridor. While corridors such as Ness serve as major transportation routes, they serve the additional purpose of accommodating a mix of uses, functioning as vibrant urban places for Winnipeggers to live, work, and play. Given their prominence in daily life, they are ideal for transformative change. Intensifying mixed use development along corridors by expanding the number and range of amenities and housing options within existing neighbourhoods will help complete communities. Supporting Direction and Enabling Strategies include:
    - Focus a broad mix of residential, employment, and retail development within strategic locations along corridors.
        - Promote the highest levels of intensification at significant intersections. Between each centre, lower intensities of commercial, residential, and mixed use development are appropriate.
    - Where appropriate, develop corridors in accordance with transit-oriented development principles.

Zoning

- The Residential Single-Family (R1) district is intended to accommodate primarily single-family residential development in lower-density neighbourhoods.
- The Commercial Neighbourhood (C1) district is intended to accommodate small, compact commercial uses within or surrounded by residential areas that are attractive and compatible in scale and character with surrounding residential uses, to serve the convenience needs of the surrounding neighbourhood. This district is not intended to accommodate businesses sized or designed to serve a trade area more than one-half mile

from the business. C1 districts are generally located along local streets or at local/collector intersections.



Figure 2: Zoning map of subject property and surrounding neighbourhood

- Section 62 of Zoning By-law No. 200/06 prescribes all permitted and conditional principal uses in each zoning district. The following uses are either permitted or conditional in the "C1" district:

Permitted	Conditional
Dwelling, single family detached	Dwelling, live-work*
Dwelling, two-family	Dwelling, multi-family
Care home*	Assisted living facility
Neighbourhood rehabilitation home*	Community/recreation centre
Single room occupancy*	Social service facility
Library	Boat dock, public access

Post office/carrier depot Protection and emergency services Community gardens Park/plaza/square/playground* Day care centre* Gallery/museum* Animal hospital or veterinary clinic* Kennel* Restaurant* Office* Personal services (unless otherwise listed)* Medical/dental/optical/counseling clinic* Retail sales* Utility facility, minor* Contractor's establishment	Place of worship* Hostel Hotel Transit station
* - Subject to use-specific standards	

Figure 3: Permitted and conditional uses in the "C1" district

- Section 148 of the zoning by-law prescribes dimensional standards for the "C1 district.

	Min/Max Front Yard (ft.)	Min. Rear Yard (ft.)	Min. Interior Side Yard (ft.) *	Min. Corner Side Yard (ft.)	Max. Height of Building (ft.)	Max. Floor Area Ratio
C1	0 / NA	0	0	0	39	1.0
* - Where a side or rear lot line in a commercial zoning district abuts a side or rear lot line of an R1 or R2 zoning district, a yard of 10 ft. must be provided along the side or rear lot line in the commercial or institutional zoning district. The 10 ft. side yard must be landscaped pursuant to sections 188 through 193*, Landscaping and Buffering*, and must not be used for parking or loading areas, storage of refuse or materials, or commercial activities of any kind.						

Figure 4: Dimensional standards for the "C1 district

- Section 48 of the zoning by-law defines two types of home-based businesses:
  - "Home-based business, major" means an occupation or activity that is accessory to the use of the premises as a dwelling and that does not adversely affect the residential character of the neighbourhood, but that has more impacts than minor home-based businesses.
  - "Home-based business, minor" means an occupation or activity that is accessory to the use of the premises as a dwelling and that does not alter the exterior of the property or affect the residential character of the neighbourhood.
  - The criteria distinguishing between major and minor home-based businesses are outlined in Sections 114 and 115 of the zoning by-law.

Compatibility with the surrounding neighbourhood

- The Urban Planning Division does not have any concerns with the proposed rezoning to a "C1" district.
- In Figure 5 below, the properties coloured in red denote commercial properties zoned either "C1" or "C2", where the property outlined in black denotes the subject property. This portion of Ness Av already has an established commercial character; a rezoning of the subject property is adjacent to an existing commercial node. Across Hampton from the subject property is a commercial strip mall; kitty-corner is a pharmacy.

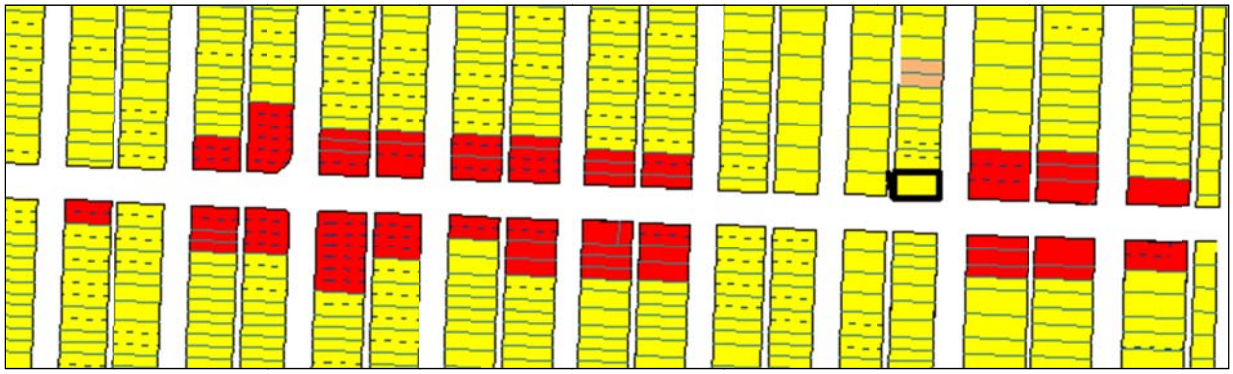


Figure 5: Commercially-zoned properties noted in red - this portion of Ness Av already has an established commercial character

Site design issues

- Upon conducting a site visit, the Urban Planning Division identified the following issues with the current site design:



Landscaping should be incorporated into the parking area to break up the large paved surface. This could take the form of planters separating the parking area from the sidewalk



There is a significant amount of fascia signage on the existing building. It is recommended that any new signage be subject to a plan approval process to the Director of Planning, Property, and Development and the Assiniboia Community Committee so that the site's entire signage plan can be evaluated comprehensively.



A chain link fence along the east property line was found to be in significant disrepair. This should be replaced.

RECOMMENDATIONS

The Urban Planning Division is supportive of the proposed rezoning, as this portion of Ness Av already has an established commercial character. For example, across Hampton is a commercial strip mall; kitty-corner is a pharmacy.

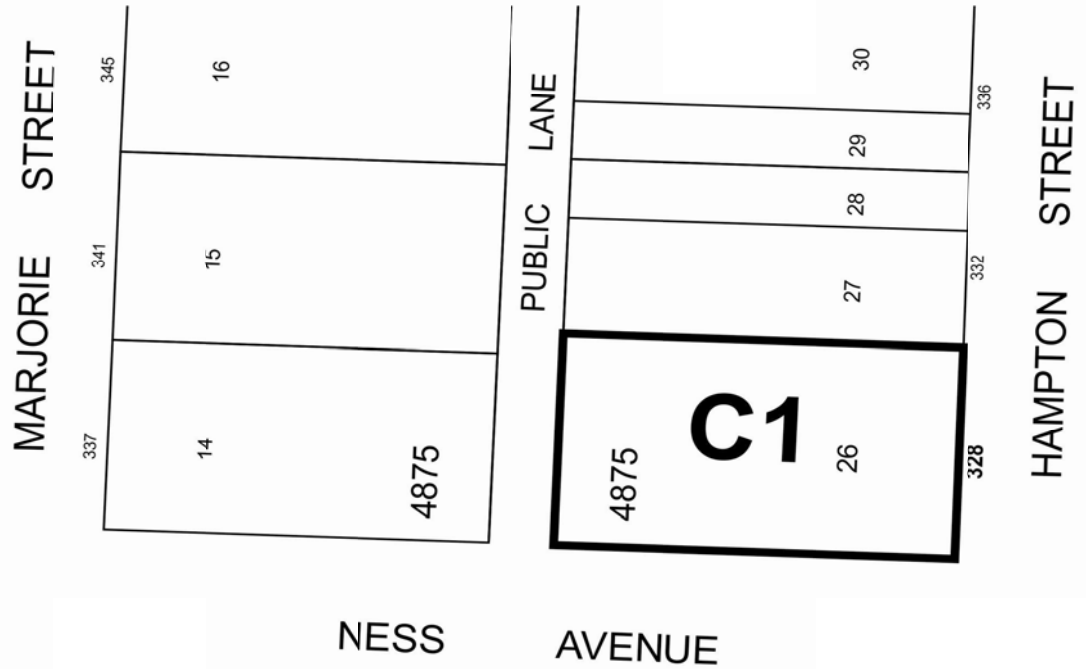
Plan approval is recommended as a condition of approval to ensure the provision of a number of site improvements and repairs.

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

Report Prepared by: Michael Pyl

APPENDIX "B"
Schedule "A" for File No. DAZ 211/2012, Assiniboia Community Committee, dated May 17, 2012

By-Law No.	File No. **DAZ 211/12**
Atlas Sheet No. N **AA19 ASSINIBOIA COMMUNITY**	Explanation: A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 328 Hampton Street from an "R1-M" RESIDENTIAL SINGLE-FAMILY DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to allow for the maintenance of a retail sales use as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____