Minute No. 638
Report "A" – Executive Policy Committee – July 2, 2014

Item No. 1 **Zoning Agreement Amendment – 989/991/993 McPhillips Street (Point Douglas Ward)**
File ZAA 6/2014 [c/r DCU 116894 2014D]

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That Zoning Agreement Caveat 2777446/1 under File DAZ 208/2002 dated October 9, 2002 (By-Law No. 8067/02), be withdrawn.

2. That the Director of Legal Services and City Solicitor be requested to withdraw the subject Zoning Agreement to DAZ 208/2002 (By-law No. 8067/02) as approved in aforesaid Recommendation 1.

3. 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 "A" – Executive Policy Committee – July 2, 2014

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 2, 2014, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 17, 2014, the Lord Selkirk-West Kildonan 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.

RE: **Zoning Agreement Amendment - 989/991/993 McPhillips Street File ZAA 6/2014 [c/r DCU 116894 2014D]**

For submission to: **Executive Policy Committee**

Prepared by: **Inga Skundberg, Committee Clerk**
Lord Selkirk-West Kildonan Community Committee

Report date: **June 19, 2014**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 17, 2014, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That Zoning Agreement Caveat 2777446/1 under File DAZ 208/2002 dated October 9, 2002 (By-Law No. 8067/02), be withdrawn.

2. That the Director of Legal Services and City Solicitor be requested to withdraw the subject Zoning Agreement to DAZ 208/2002 (By-law No. 8067/02) as approved in aforesaid Recommendation 1.

3. 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 Lord Selkirk-West Kildonan Community Committee provided the following supporting reason for its recommendation:

1. The removal of the caveat on the subject property enables the applicant to fulfill his business dream.

PUBLIC HEARING SUMMARY

File: ZAA 6/2014

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

Public Hearing: June 17, 2014
Council Building, 510 Main Street

Applicant: Adelma Marinelli

Subject:



Premises Affected: 989/991/993 McPhillips Street

Exhibits Filed:
1. Application dated March 31, 2014
2. Notification of Public Hearing dated April 17, 2014
3. Manitoba Status of Title 1720510/1

4. Letter of authorization dated March 14, 2014 from Adelma Marinelli and Delfina Marinelli
5. Surveyor's Building Location Certificate and sketch dated November 19, 1975
6. Caveat 277446
7. Report from the Urban Planning Division dated June 6, 2014
8. Inspection Report
9. Audio Recording of representations

REPRESENTATIONS:

In Support:

Adelma Marinelli
Sypras Sayapheth

In Opposition

Nil

For Information:

Nil

For the City:

Noah Yauk, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 6/2014

ADMINISTRATIVE REPORT

Title: ZAA 6/14 – 989-993 McPhillips Street

Issue: For consideration at the Public Hearing to remove the Zoning Agreement

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
B. Smith	B. Thorgrimson	N/A	

RECOMMENDATIONS

1. That Zoning Agreement Caveat 2777446/1 under File DAZ 208/02 dated 10, 09, 2002 (By-Law No. 8067/02), be withdrawn.

REASON FOR THE REPORT

- The property owner wishes to delete the existing zoning agreement caveated on the subject property.
- Though the property is zoned C2, the zoning agreement restricts uses only to those that are permitted in the C1 zoning district.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Planning and Land Use Division are concurred in, the subject zoning agreement will be deleted.

HISTORY

DAZ 208/2002

- Council recommended approval of the application DAZ 208/2002 to rezone the subject property to a "C2" Commercial District.
- The rezoning included a Zoning Agreement.
- The greatest effect of the zoning agreement was to restrict land uses to those permitted under C1.
- Since C1 doesn't permit body modification establishments the applicant is asking that the zoning agreement be discharged. A Conditional Use application is also required because a body modification use is a Conditional Use in the C2 zone.
- If successful, this will enable C2 uses on the site, consistent with the property's zoning.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared By	Noah Yauk
Date:	June 6, 2014
File No.	ZAA 6/14

APPENDIX 'A'

DATE: June 6, 2013

FILE: **ZAA 6/14**
RELATED FILES: DAZ 208/02 (By-Law 8067/02)

COMMUNITY: Lord Selkirk / West Kildonan

NEIGHBOURHOOD #: Burrows Central

SUBJECT: For consideration at the Public Hearing to delete the Zoning Agreement in its entirety.

LOCATION: 989-993 McPhillips Street

LEGAL DESCRIPTION: Lots 3 and 4, Block B, Plan 4910 WLTO in RL 43 Parish of St John



APPLICANT: Adelma Marinelli
294 Lipton Street
WPG, MB R3G 2H1

Owner: Adelma and Delfina Marinelli
294 Lipton Street
WPG, MB R3G 2H1

RECOMMENDATION: Approval

REPORT SUMMARY

- The Urban Planning Division recommends the application be approved.
- Approval of the application will allow “C2” uses on a property zoned “C2”.
- Any future development will have to meet the requirements of zoning by-law 200/2006.

SITE DESCRIPTION

Land Use and Zoning

- The subject property, which is zoned “C2” commercial community, is located on the north east corner of College Avenue and McPhillips Street, in the Burrows Central Neighbourhood of the Point Douglas ward.

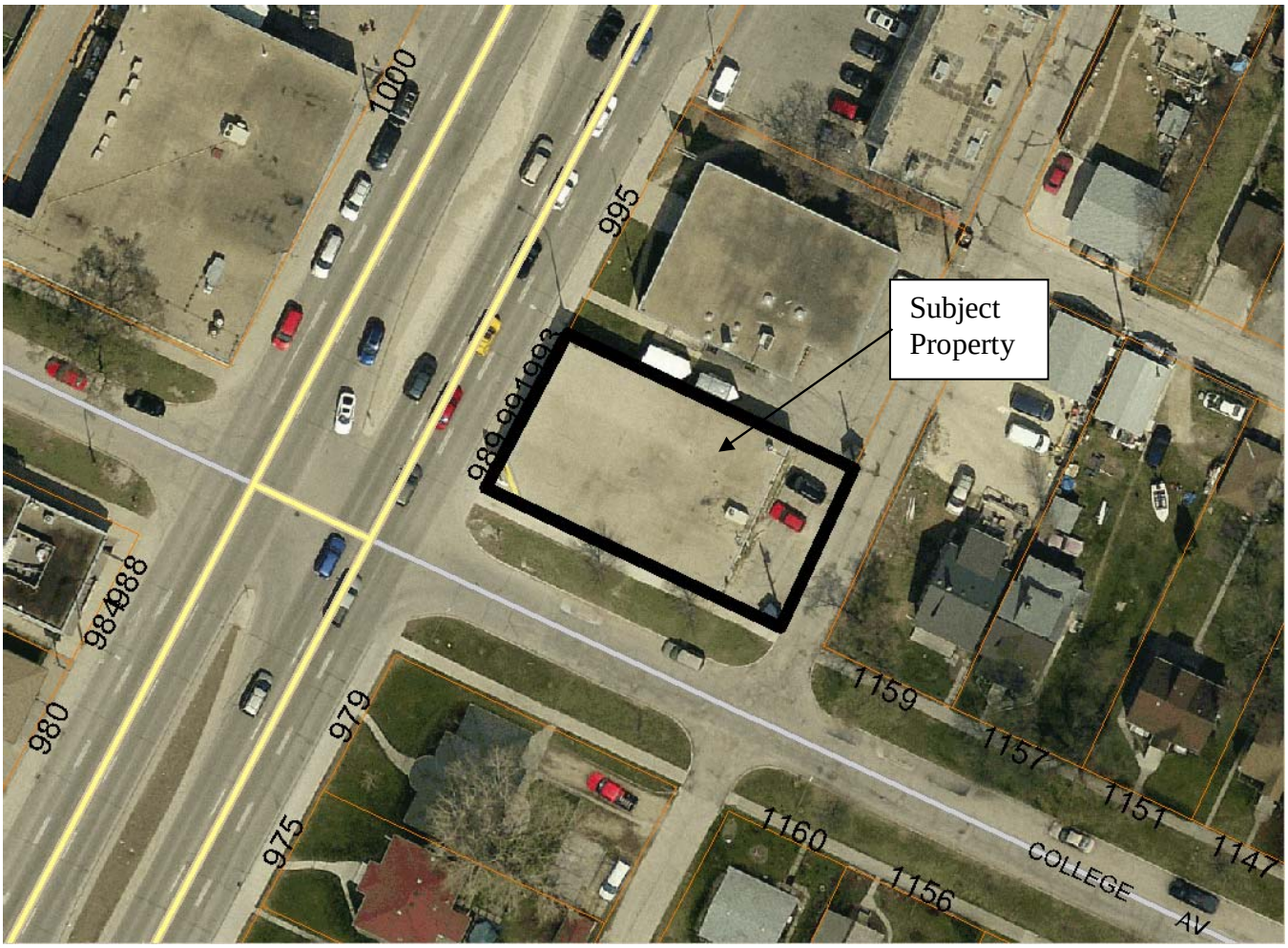


Figure 1: Air Photo (flown 2012) of the subject property and the surrounding

North: Commercial Uses zoned “C1” Commercial District.
South: College Avenue then single family homes zoned “C1” Commercial District.
East: A public lane, then single family residences zoned “R1-M” Residential Single-Family District.
West: McPhillips Street, then commercial uses zoned “C2” Commercial District.

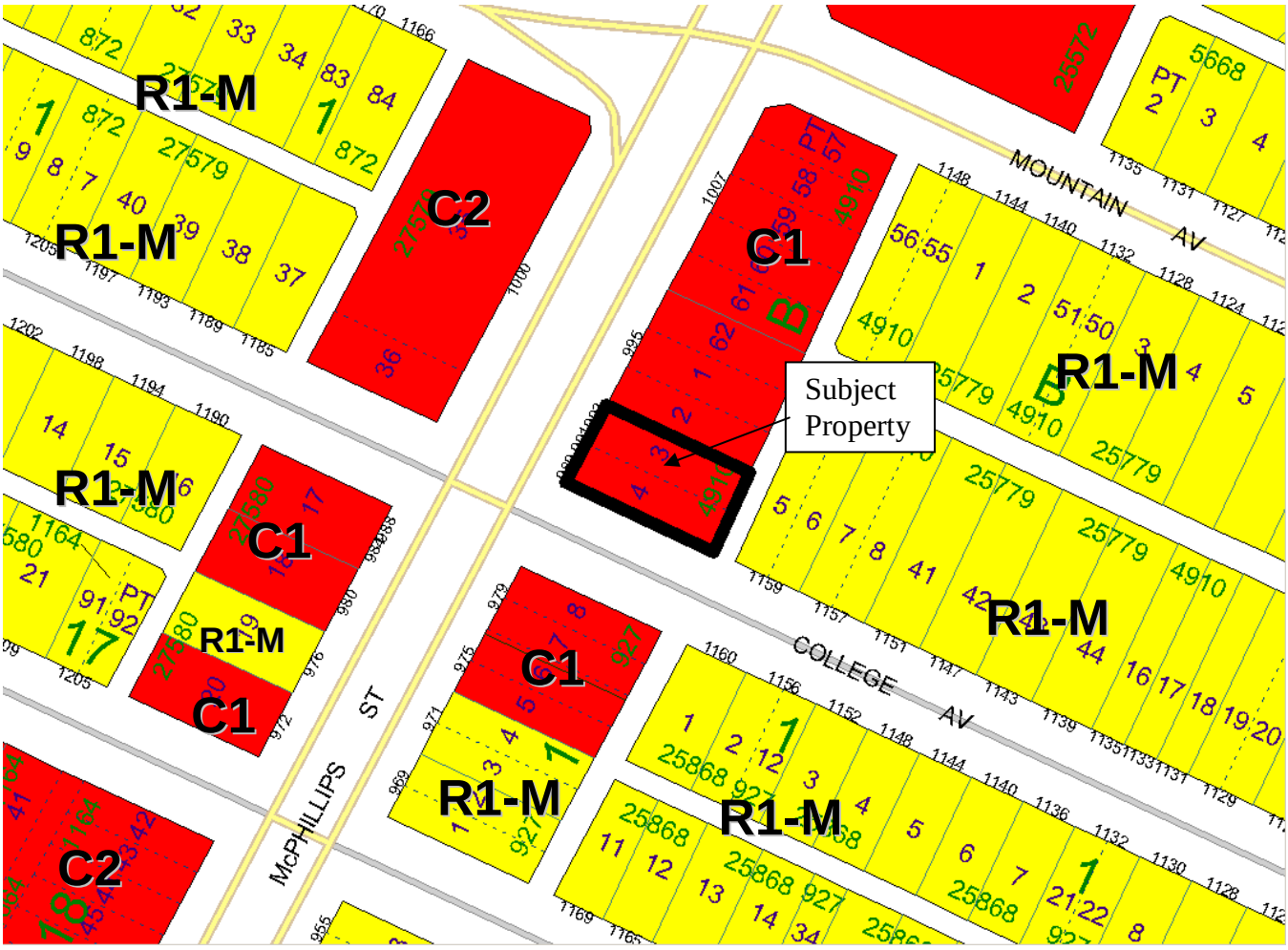


Figure 2: Zoning map of subject property and surrounding neighbourhood

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The property owner wishes to delete the existing zoning agreement to allow for C2 uses on the subject site.
- The property has a Zoning Agreement caveated on the Certificate of Title by the City of Winnipeg, of which one of the clauses restricts land uses to those permitted in the C1 zoning district.
- The applicant is ultimately seeking approval of a body modification establishment (which further requires conditional use approval in the C2 zone) but wishes to delete the zoning agreement entirely to allow more flexibility in terms of land uses on the site and more consistent with the site's zoning.

ANALYSIS AND ISSUES

ZONING AGREEMENT

As per DAZ 208/02 the subject property was rezoned to "C2" Commercial district. The reason for the rezoning was to accommodate a check cashing facility.

The zoning agreement contains one clause pertaining to land uses which restricts land uses on the subject site to all listed C1 uses.

Removal of the zoning agreement will allow the site access to all C2 uses that are listed in the zoning by-law. As the property is zoned C2, it is difficult to fully appreciate the rationale behind limiting development to uses of another zoning district altogether. Specifically rezoning the site to C2 and stating it can only have C1 uses does not seem entirely practical.

Removal of the zoning agreement would expand the uses accommodated on the subject property. Any redevelopment of the site would also be required to meet the standards of zoning by-law 200/2006. The following table provides a list of C1 and C2 uses that are accommodated in the zoning by-law:

Use	C1	C2	Use Specific Standard
Dwelling, single-family detached	P	C	
Dwelling, two-family	P	C	
Assisted Living Facility	C	P	
Community Recreation Centre	C	P	
Social Service Facility	C	P	
College or University		P	
Commercial School		P	
Park/Plaza/Square/Playground	P*	P	68
Hospital		C*	70
Place of Worship	C*	P*	72
Cultural Centre		C	
Gallery/Museum	P*	P	
Amusement Enterprise, Indoor		P*	74
Auditorium/Concert Hall/Theatre/Cinema		P*	75
Hall Rental		C	
Private Club, Not Licensed		C*	78
Studio, Radio/TV/Motion Picture Broadcast & Production		P	
Amusement Enterprise, Outdoor		C	
Hostel	C	P	
Hotel or Motel	C	P	
Animal Hospital or Veterinary Clinic	P*	P	81
Drinking Establishment		P*	84
Restaurant	P*	P*	92

Use	C1	C2	Use Specific Standard
Office	P*	P	87
Personal Services	P*	P*	89
Body Modification Establishment		C	
Cheque Cashing Facility		C*	83
Funeral Chapel or Mortuary		C	
Medical/Dental/Optical/Counselling Clinic	P*	P	86
Retail Sales	P*	P*	90
Auction Room		C	
Landscape or Garden Supplies		P	
Supermarket		P*	91
Pawnshop		C*	88
X-Rated Store		C*	93
Advertising Sign		C	
Auto/Light Truck/Motorcycle, Repair & Service		P*	94
Auto/Light Truck/Motorcycle, Sales & Rental		P*	95
Auto Parts and Supplies, Sales		P	
Car Wash		C	
Drive-In or Drive-Through		P*	96
Fuel Sales		P*	97
Parking, Structured		P	
Parking, Surface		C	
Bus Depot		C	
Commercial Marina		C	
Contractor's Establishment	P	P	
Fleet Services		C	
Recycling Collection Centre		P	

Compatibility with Surrounding Uses

The subject property is located on McPhillips Street which is largely characterized by stretches of commercial development of varying intensities and lower intensity residential development. The particular block that the subject site is located on (between Mountain and College) entirely consists of commercial uses. This is consistent also with the lands just west of the site on the other side of McPhillips which are zoned C2. While the site is adjacent to lower density single family uses it is separated from them by an intervening street or public lane. This is consistent with the typology of development on many high volume commercial streets with commercial frontage separated from residential development via a public lane. Given this established context, the removal of the subject zoning agreement seems appropriate.

RECOMMENDATION

The Urban Planning Division recommends the application be approved because:

- The property is zoned currently zoned C2, yet cannot establish any C2 land uses.
- The zoning district and the uses it provides for is compatible with existing uses on McPhillips Street.

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

Report Prepared By: Noah Yauk
PPD File # ZAA 6/14