Agenda – Council – February 24, 2016

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – February 16, 2016

Item No. 1 Rezoning – 971 Main Street
(Mynarski Ward)
File DAZ 223/2015

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 17, 2016, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee, and submitted 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 223/2015 dated September 30, 2015 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 for the development of any building or structure, plans shall be submitted showing the location and design of proposed buildings and alterations thereto, and the location and design of accessory parking areas, fencing, and landscaping to the Lord Selkirk West Kildonan Community Committee and the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permits, and thereafter all to be constructed and 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.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – February 16, 2016

4. That the zoning section of the by-law comes into force when the Zoning Agreement are 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 by-law is passed.

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

6. 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 – Standing Policy Committee on Property and Development, Heritage and Downtown Development – February 16, 2016

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 17, 2016, the Executive Policy Committee concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On February 16, 2016, due to a tie vote, the Standing Policy Committee on Property and Development, Heritage and Downtown Development submitted the matter to the Executive Policy Committee and Council without recommendation.

On January 12, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development laid over the matter to its meeting on February 16, 2016.

COMMUNITY COMMITTEE RECOMMENDATION:

On December 8, 2015, the Lord Selkirk-West Kildonan Community Committee did not concur in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

RE: **Rezoning – 971 Main Street**
File DAZ 223/2015

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

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

Report date: **December 9, 2015**

COMMUNITY COMMITTEE RECOMMENDATION:

On December 8, 2015, the Lord Selkirk-West Kildonan Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development:

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 223/2015 dated September 30, 2015 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:

ii. That for the development of any building or structure, plans shall be submitted showing the location and design of proposed buildings and alterations thereto, and the location and design of accessory parking areas, fencing, and landscaping to the Lord Selkirk West Kildonan Community Committee and the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permits, and thereafter all to be constructed and 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 zoning section of the by-law comes into force when the Zoning Agreement are 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 by-law is passed.

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

6. ***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.***

Note: The wording in bold and italics denotes recommendations made by the Community Committee.

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

1. This is a good business neighbour that is appreciated so I support the subject property being removed from the Main Street Planned Development Overlay (PDO).

2. Even though the PDO provides important development guidance for Main Street, there has not yet been a lot of changes to the street and the neighbourhood is still a long way from the transition the PDO is intended for.

PUBLIC HEARING SUMMARY

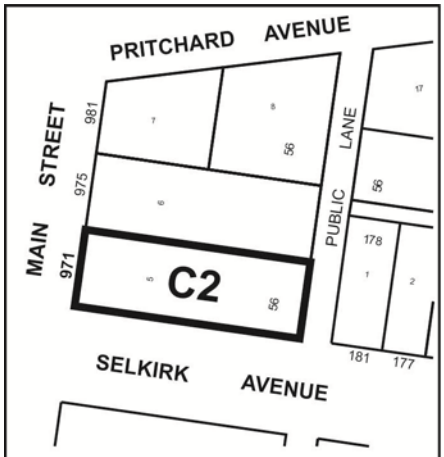
File: DAZ 223/2015

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

Public Hearing: December 8, 2015
Council Building, 510 Main Street

Applicant: Charles Alligood

Subject:



LORD SELKIRK WEST KILDONAN COMMUNITY

APPLICANT : CHARLES ALLIGOOD

FILE : DAZ 223/15

PROPOSAL : To rezone the land shown outlined above from a "C2 PDO-1 NEIGHBOURHOOD MAIN STREETS" COMMERCIAL COMMUNITY DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to remove the subject property from the Planned Development Overlay (PDO) – Neighbourhood Main Streets to maintain an existing auto/light truck/motorcycle, repair and service use which is prohibited under the PDO. **For information, phone Mr. N. Yauk, Planner, at 204-986-4560.**

Premises Affected: 971 Main Street

Exhibits Filed:

1. Application dated September 29, 2015
2. Notification of Public Hearing dated October 6, 2015
3. Manitoba Status of Title 2273159/1
4. Letter of authorization dated September 21, 2015 from Sohan Singh Warha and Bhupinder Warha, Friend's Auto & Body Shop to Charles Alligood
5. Plans (2 pages)
6. Report from the Urban Planning Division dated November 24, 2015
7. Inspection Report
8. Petition in support of the application purporting to contain the signatures of 57 residents, submitted by Sohan Singh at the public hearing
9. Communication dated December 7, 2015, from Richard Halliday, North End Community Renewal Corporation, in support of the application submitted by Sohan Singh at the public hearing
10. Recording of Rpresentations

REPRESENTATIONS:

In Support:

Charles Alligood
Mary Arceo
Ben Bansal
Baljit Gill
Richard Halliday, North End Community Renewal Corporation
Burnell Kipling
Kulwinder Sidhu
Sohan Singh
Bhupinder Warha

In Opposition

Nil

For Information:

Nil

For the City:

Mr. N. Yauk, Planner, Planning, Property and Development Department

Exhibit "6" referred to in File DAZ 223/2015

ADMINISTRATIVE REPORT

Title: DAZ 223/15 – 971 Main St

Issue: An application for consideration at the Public Hearing for a rezoning from "C2" – PDO Neighbourhood Main Streets to "C2" to allow for the maintenance of an auto/ light truck/ motorcycle repair and service use.

Critical Path: LSWK Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council

AUTHORIZATION

Author	Division Head	Department Head	CFO	CAO
Noah Yauk	B. Smith	n/a	n/a	

RECOMMENDATIONS

That the proposed rezoning be **rejected.**

REASON FOR THE REPORT

- The applicant intends to rezone the subject property out of the Neighbourhood Main Streets Overlay to allow for the maintenance of an auto/ light truck/ motorcycle repair and service use. The proposed zoning designation is "C2" and the existing zoning designation is "C2" PDO Neighbourhood Main Streets.
- Rezoning 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 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 subject property will not be rezoned and the application will be **rejected**.

HISTORY

An auto/ light truck/ motorcycle repair and service use was approved on the subject site, on a temporary basis, under DAV 19/2003C. This former variance approval expired on March 31, 2008, and on that date the use was rendered non-compliant.

In 2008, the lands were rezoned to a C2 Neighbourhood Main Streets Planned development Overlay (PDO) by the adoption of Zoning By-law 200/2006. In this Overlay zoning district an auto/light truck/ motorcycle repair and service use is prohibited. The applicant is proposing to rezone the subject site out of the overlay zone. If successful the site would be zoned "C2" which permits the subject use.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning Division
Prepared by	Noah Yauk
Date:	Nov. 24, 2015
File No.	DAZ 223/15

APPENDIX 'A'

DATE: Nov. 24/2015
FILE: DAZ 223/15

RELATED FILES:
COMMUNITY: LSWK
NEIGHBOURHOOD #: 3.311

SUBJECT: To rezone the subject property from "C2" – PDO Neighbourhood Main Streets Overlay to "C2" to allow for the maintenance of an auto/ light truck/ motorcycle repair and service use.

LOCATION: 971 Main St



APPLICANT: Charles Alligood
971 Main St
Winnipeg MB R2W 3P6

OWNER: Sohan Singh and Bupinder Warha
971 Main St.
Winnipeg MB R2W 3P6

RECOMMENDATION: **Rejection**

REPORT SUMMARY

- The applicant intends to rezone the subject property from a "C2" – PDO Neighbourhood Main Streets district to a "C2" district to allow for the continuance of an auto/ light truck/ motorcycle repair and service.

- The Public Service is recommending the rezoning application be rejected on the grounds that the Neighbourhood Main Streets PDO intentionally prohibits auto oriented land uses such as auto repair, sales and service.
- Approvals granting the auto repair use were temporary in nature and had expired in 2008. Supporting a rezoning application could set a precedent for introducing other auto oriented land uses on lands zoned PDO Neighbourhood Main Streets. Auto-oriented land uses are prohibited in a deliberate fashion to encourage more pedestrian oriented land uses on streets that are governed by the PDO.

SITE DESCRIPTION

- The subject property is located on the southeast corner of Selkirk Avenue and Main Street in the North Point Douglas neighbourhood of the Mynarski Ward.
- The subject property is 8, 220 square feet in area. It is occupied by a two storey building and a 1 storey building joined together.
- The subject property is within the Areas of Stability – Mature Communities Policy Area and along a Regional Mixed-Use Corridor (Main St) under the *Complete Communities Direction Strategy*.
- The property is zoned “C2” PDO Neighbourhood Main Streets.



Figure 1: Site map of subject property and surrounding neighbourhood

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant intends to rezone the subject property out of the PDO Neighbourhood Main Streets designation to enable an auto/light truck/ motorcycle repair and service use on the subject site, a use currently prohibited in the PDO.
- The applicant is proposing to add three overhead doors along the south wall of the existing one storey building. Through the process of applying for permits it was discovered that the auto repair use was established by way of a temporary use variance which expired in 2008.

ANALYSIS AND ISSUES

OURWINNIPEG AND COMPLETE COMMUNITIES DIRECTION STRATEGY

Under the *Complete Communities Direction Strategy* the subject property is along a Regional Mixed Use Corridor. Key directions guiding development along Centres and Corridors include the following:

- PROVIDES COMPACT, MIXED-USE, HIGH-QUALITY URBAN DEVELOPMENT.
- CONCENTRATES PEOPLE AND JOBS IN AREAS WELLSERVED BY THE PRIMARY TRANSIT SERVICE, LOCATED CLOSE TO TRANSIT STOPS.
- CONCENTRATES URBAN DEVELOPMENT IN A BUILT FORM THAT HELPS TO OPTIMIZE EXISTING INVESTMENT, MUNICIPAL INFRASTRUCTURE, AND FACILITIES.
- ENCOURAGES A BUILT FORM THAT SUPPORTS A PEDESTRIAN FRIENDLY ENVIRONMENT WHILE INCORPORATING CLIMATE SENSITIVE SITE AND BUILDING DESIGN.

Based on the above policies, the Urban Planning Division does not support the continuance of the auto repair use at this location. The Neighbourhood Main Street PDO of zoning by-law 200/2006 provides regulations that further reinforce the intent of Complete Communities which is to encourage pedestrian oriented developments over time through land uses and built form considerations. The proposed use is an auto-oriented use which competes with the objectives clearly stated in both the PDO and *Complete Communities*. Enabling this use to survive by way of a rezoning serves to delegitimize broad policy objectives and risks setting a precedent for other unwanted land uses on this section of Main Street governed by the Neighbourhood Main Streets PDO.

Zoning By-Law 200/2006

The subject site is governed by the Neighbourhood Main Streets overlay district of Zoning By-law 200/2006. In fact, it is this designation that the property would be removed from if the rezoning were successful. The intent of the overlay district is:

> *"to protect the scale and character of the pedestrian-oriented, neighbourhood-scale commercial areas in older areas of the city, to prevent the proliferation of certain uses that will erode the scale, character, or walkability of those areas, and to protect the surrounding neighbourhoods from adverse impacts of active commercial uses in close proximity to residential areas".(Schedule G)*

The above stated objectives of the overlay can be realized over time by encouraging active uses (such as retail) at street level and office and housing on the upper levels of multi-storey apartments. The "C2" Neighbourhood Main Streets overlay accommodates this type or retail/ residential use as a permitted use.

Neighbouring Land Uses

The subject site is surrounded by a variety of residential and commercial uses, some of which meet the objectives of the PDO. However, the block in which the site is situated along (east side of Main Street between Selkirk Avenue and Pritchard Avenue) is quite industrial in nature. The existing land uses on the block do not create any pedestrian activity and the built form does not create any interaction between existing land uses and the public right of way. Enabling the use to continue at this location serves to hold back the type of development that is envisioned for Main Street. Enabling this auto oriented use to continue may also set a precedent and at the

very least provide little encouragement for other sites along Main to transition to more appropriate uses. It is also important to note that the City of Winnipeg's Transportation Master Plan identifies Main Street as a future rapid transit corridor. As existing policies suggest, it is prudent to encourage land uses that will fit better in this context instead of auto oriented land uses. Given that the subject site is at the confluence of two major thoroughfares (Selkirk and Main St) it signals an opportunity for a key future mix use node. An important consideration is that the existing, but expired auto use was granted on a temporary basis, thus acknowledging expectations of a short term situation. The conditions of approval that previously granted the use specified an expiration date. As per the City of Winnipeg Charter, a use variance can only be accommodated once for a maximum length of 5 years. The subject use variance had expired in 2008 and the use has been operating without proper approvals since that time.

RECOMMENDATION

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

- The proposed rezoning will remove it from the regulations of the Neighbourhood Main Streets PDO and will facilitate a land use currently prohibited by it.
- The proposed use is not consistent with the policies of the Complete Communities Direction Strategy for development along Regional Mixed Use Corridors in that that the policy area encourages a pedestrian oriented mixed use environment.

This Report Submitted by: Noah Yauk
Planning, Property and Development Department
Urban Planning Division
Report Prepared by: PPD File # DAZ 223/15

APPENDIX 'B'

Schedule "A" for File No. DAZ 223/15, LSWK Community Committee, dated September 30, 2015.

By-Law No. _____

File No. **DAZ 223/15**

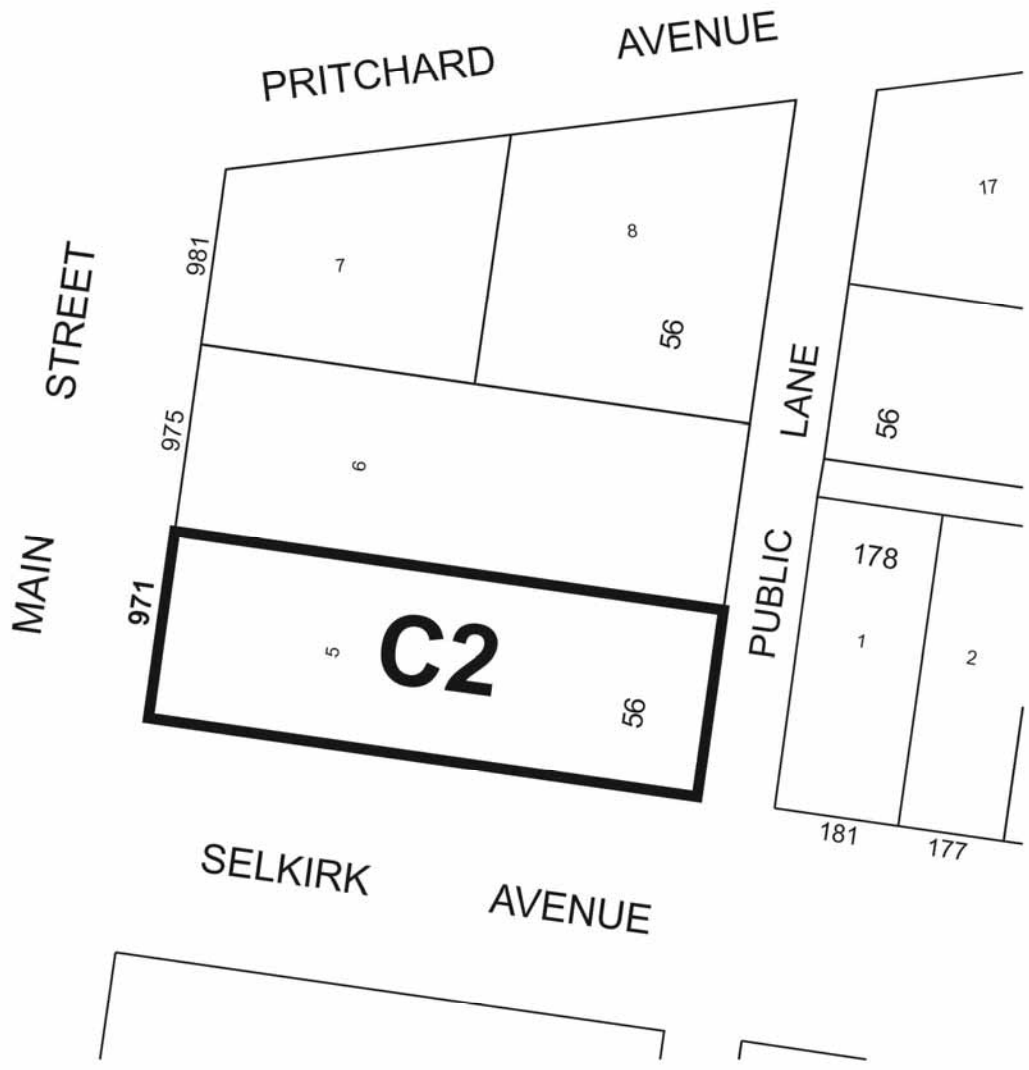
Atlas Sheet No. **X25**

N

LORD SELKIRK WEST KILDONAN COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 971 Main Street from a "C2 PDO-1 NEIGHBOURHOOD MAIN STREETS" COMMERCIAL COMMUNITY DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to remove the subject property from the Planned Development Overlay (PDO) – Neighbourhood Main Streets to maintain an existing auto/light truck/motorcycle, repair and service use which is prohibited under the PDO as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____