Minute No. 563
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 20, 2016

Item No. 17 Rezoning – 1039 Cathedral Avenue
(Point Douglas Ward)
File DAZ 202/2016

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development Committee and adopted the following:

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 202/2016 dated May 6, 2016 to a "C1" Commercial Neighbourhood District. Subject to the following conditions:

    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 final plans, showing the location and details of buildings, elevations, parking, landscaping, garbage enclosure, fencing and pedestrian connections shall be submitted to the Lord Selkirk – West Kildonan Community Committee and the Director of Planning, Property and Development for 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 in lieu of the dedication of land, the developer shall provide a cash payment representing 10% of the appraised value of the Development application as determined by the City.

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 the same to Council for all three (3) readings.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 20, 2016

COUNCIL DECISION (continued):

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 land within one year from the date the by-law is passed, failing which the by-law will expire and 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 the one year period and Council approves the extension.

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, Heritage and Downtown Development – September 20, 2016

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2016, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and the Lord Selkirk-West Kildonan Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 20, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2016, 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.

On July 5, 2016, the Lord Selkirk-West Kildonan Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on September 13, 2016 at 5:00 p.m. in the Council Building at 510 Main Street.

RE: **Rezoning – 1039 Cathedral Avenue**
File DAZ 202/2016

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

Prepared by: **Ms I. Skundberg, Committee Clerk**
Lord Selkirk-West Kildonan Community Committee

Report date: **September 15, 2016**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 13, 2016, 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 202/2016 dated May 6, 2016 to a "C1" Commercial Neighbourhood District. Subject to the following conditions(s):

    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 final plans, showing the location and details of buildings, elevations, parking, landscaping, garbage enclosure, fencing and pedestrian connections shall be submitted to the Lord Selkirk – West Kildonan Community Committee and the Director of Planning, Property and Development for 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 in lieu of the dedication of land, the developer shall provide a cash payment representing 10% of the appraised value of the Development application as determined by the City.

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.

Minutes – Lord Selkirk-West Kildonan Community Committee – September 13, 2016

4. 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.

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 land within one year from the date the by-law is passed, failing which the by-law will expire and 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 the one year period and Council approves the extension.

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 stated that the entrance to this property will be onto McPhillips Street.

2. There is a lot of development occurring in North Winnipeg, and this neighbourhood is changing. It is a more mature neighbourhood with a school across the street and a daycare south of the property zoned commercial, so I think welcoming this use, including a possible ice cream parlour, into the neighbourhood is a good thing.

3. The applicant has gone around to many of the neighbours on Cathedral Avenue to secure consensus, and no-one has appeared or registered in opposition at the public hearing today.

PUBLIC HEARING SUMMARY

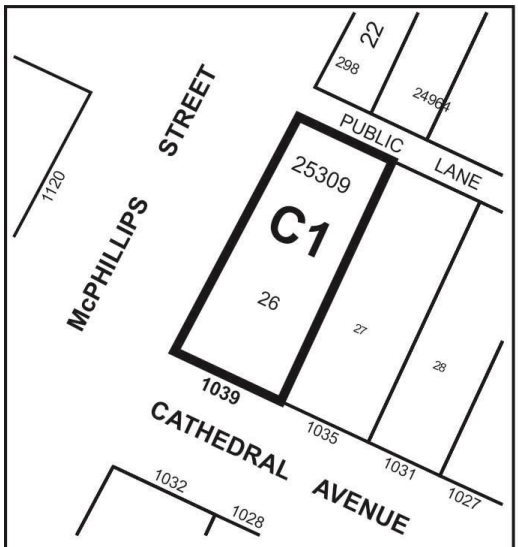
File: DAZ 202/2016

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

Hearing: September 13, 2016
July 5, 2016
Council Building, 510 Main Street

Applicant: Carroll Law Office (John Prystanski)

Subject:



Premises Affected: 1039 Cathedral Avenue

Exhibits Filed:

1. Application dated May 6, 2016
2. Notification of Public Hearing dated May 13, 2016
3. Manitoba Status of Title 2803996/1
4. Letter of authorization dated November 5, 2015 from Vincent Tsang to John Prystanski, Carroll Law Office
5. Letter of authorization dated February 8, 2016 from David Tsang to John Prystanski, Carroll Law Office
6. Plans (4 pages)
7. Report from the Urban Planning Division dated June 28, 2016
8. Inspection Report
9. Communication dated July 2, 2016, from John Prystanski, Carroll Law Office, Applicant, in support of the application
10. Petition in support of the application purporting to contain the signatures of 14 area residents, submitted by John Prystanski, Carroll Law Office, Applicant
11. Notice of Adjournment dated July 8, 2016
12. Plan (1 page) and Images (3 pages) submitted by John Prystanski, Carroll Law Office, Applicant, in support of the application at the public hearing on September 13, 2016
13. Recording of Representations of public hearing held on September 13, 2016

REPRESENTATIONS:

In Support:
Hung Thieu Chau
Philip Lee
John Prystanski, Carroll Law Office
Vincent Tsang

In Opposition
Nil

For Information:
Nil

For the City:
Mr. F. Ojo, Planner, Planning, Property and Development Department
Mr. N. Yauk, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File DAZ 202/2016

ADMINISTRATIVE REPORT

Title: DAZ 202/2016 – 1039 Cathedral Avenue

Issue: An application for consideration at the public hearing to rezone the property from an "R1-M" Residential Single-Family District to a "C1" Commercial Neighbourhood District to allow a restaurant/retail sales (Bakery) use.

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
Femi Ojo	B. Smith	n/a	

RECOMMENDATIONS

That the subject rezoning application under file DAZ 202/2016 be **rejected.**

REASON FOR THE REPORT

- The applicant is proposing to rezone the site from "R1-M" Residential Single-Family District to "C1" Commercial Neighbourhood District in order to establish a restaurant/retail sales Bakery) use.
- 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**.

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	*Femi Ojo, MCIP*
Date:	*June 28, 2016*
File No.	*DAZ 202/2016*

APPENDIX 'A'

DATE: June 28, 2016

FILE: **DAZ 202/2016**

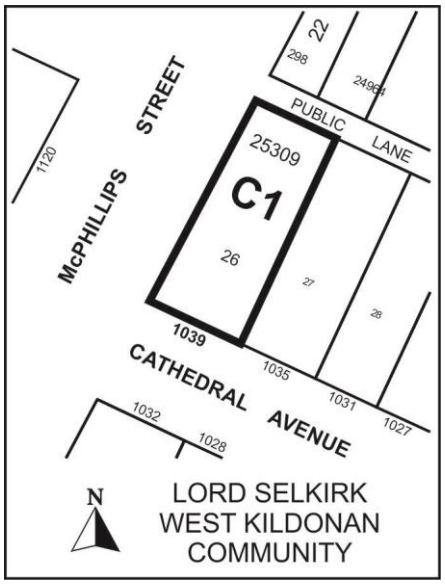
RELATED FILES:

COMMUNITY: Lord Selkirk - West Kildonan Committee

NEIGHBOURHOOD #: 3.312

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

LOCATION: 1039 Cathedral Avenue
LEGAL DESCRIPTION: LOT 26 PLAN 25309 44/45 ST J & 1K



APPLICANT: Carroll Law Office – John Prystanski
902 – 388 Portage Avenue
Winnipeg, Manitoba R3C 0C8

OWNER: Vincent Tsang and David Tsang
8 Basel Avenue
Winnipeg, Manitoba R2P 0G4

RECOMMENDATION: Rejection

SITE DESCRIPTION

- The subject property is located on the northeast corner of Cathedral Avenue and McPhillips Street in the Robertson neighborhood of the Point Douglas Ward.

- The subject site is 7,476 sq. ft. in size and currently on it is a single-family dwelling built in 1953.
- The subject property falls within the Area of Stability – Mature Community Policy Area of the Complete Community Direction Strategies. The property is zoned "R1-M" Residential Single-Family District.

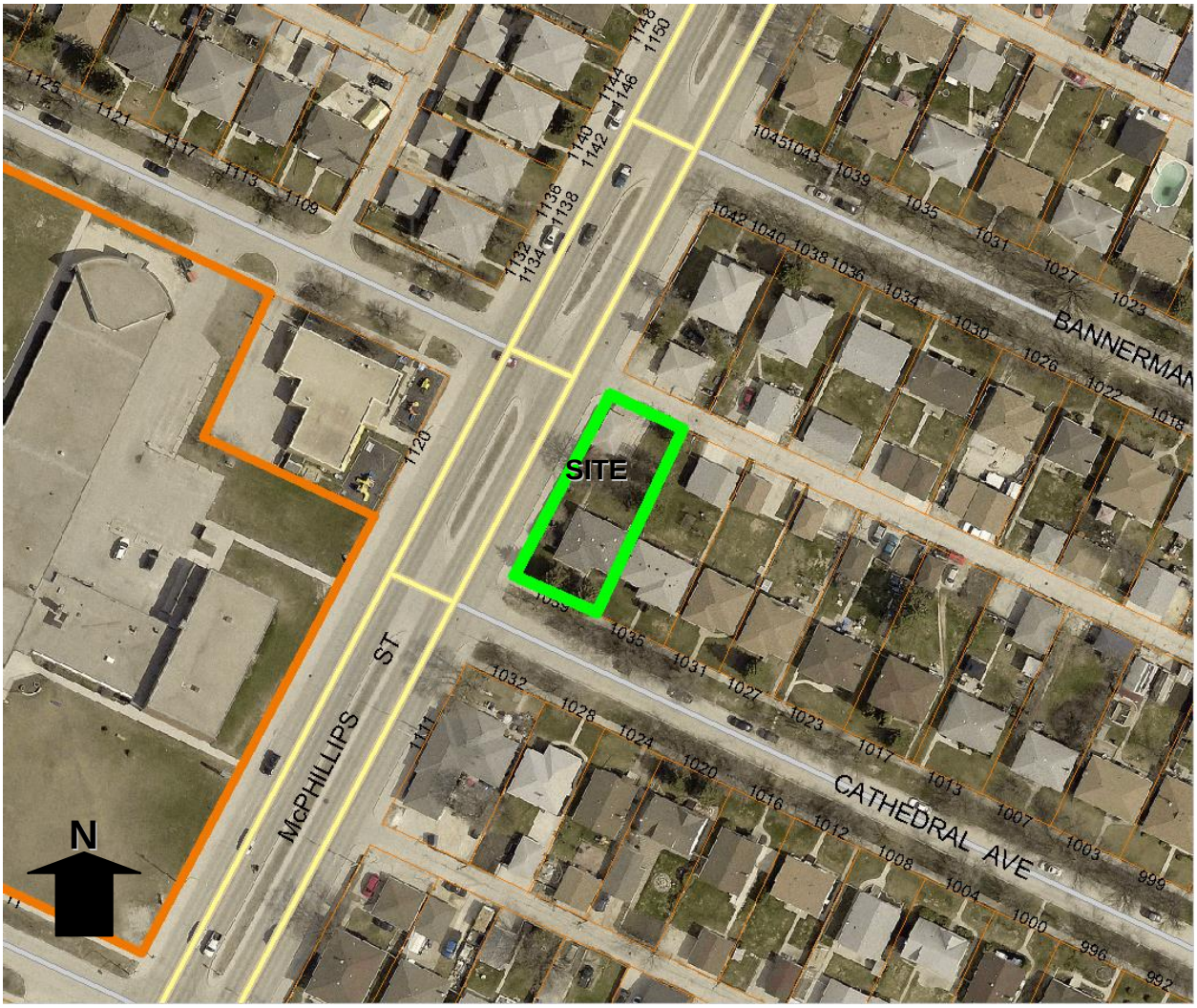


Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2014)*

SURROUNDING LAND USES & ZONING (See Figure 2)

North: Backlane, then Single-Family residences zoned "R1-M" Residential Single-Family.

South: Cathedral Avenue, then Single-Family Residential zoned "C1" Commercial Neighbouhood.

East: Residences zoned "R1-M" Residential Single-Family.

West: McPhillips Street, then a child care and a school zoned "C1" Commercial Neighbouhood and "PR2" Parks and Recreation.

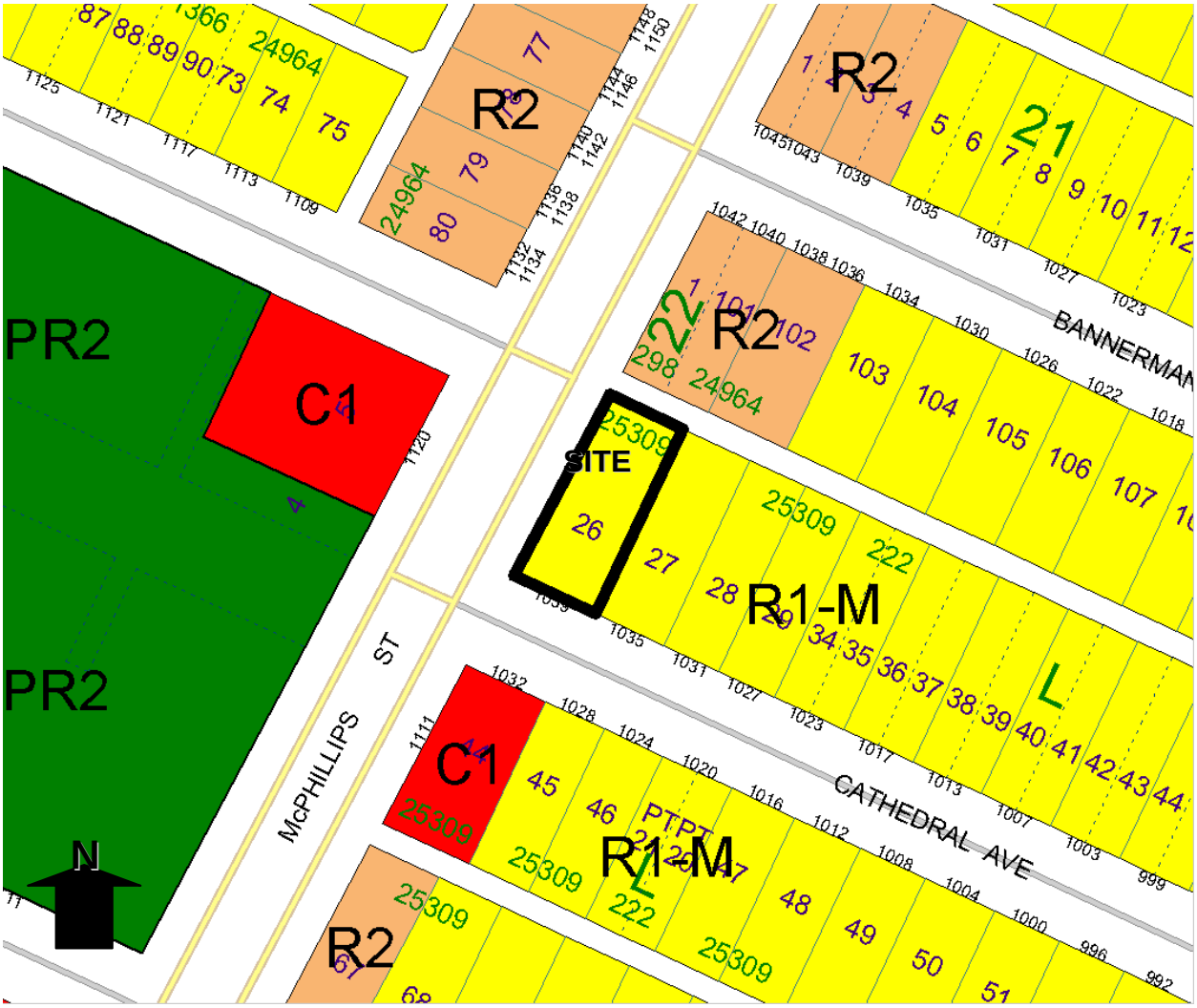


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to rezone the site from "R1-M" Residential Single-Family District to "C1" Commercial Neighbourhood in order to establish restaurant/retail sales (Bakery).

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is within the Areas of Stability – Mature Communities policy area. Key relevant policies guiding development within Areas of Stability include:

- Promote the form of buildings and spaces that are sensitive to the community context and addresses the transition between new and existing developments.
- Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.

REZONING

- The subject site is currently zoned “R1-M” Residential Single-Family. The applicant is proposing to rezone the property to “C1” Commercial Neighborhood.

“C1” Commercial Neighbouhood District

- 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 in Neighbourhood or Community mixed use corridors. Dimensional standards prescribed under Zoning By-law 200/2006 are as follows:
  - Maximum front yard - only applies in Urban-Infill areas
  - Minimum side yard of 0 foot.
  - A rear yard of 0 foot, and
  - Maximum building height of 39 feet.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The applicant is proposing a commercial development in an area surrounded by single-family residences; the Winnipeg *Complete Communities* call for development and redevelopment that is complementary to the existing scale, character and built form. This proposal negates this intent.
- Aside from the above, the applicant has not demonstrated the lack of existing commercial space on Cathedral Avenue to warrant opening up a residential dwelling for commercial purposes.
- It must also be noted that the fact that 1120 Cathedral Avenue is zoned “C1” cannot be used as a justification for rezoning 1039 Cathedral Avenue to “C1” Commercial Neighbourhood use. The said property (1120 Cathedral Avenue) is currently being used as a daycare which is compatible with the institutional use south of the property.

RECOMMENDATIONS

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

- The proposed rezoning and use is not consistent with Complete Communities Direction Strategy which calls for new development to be sensitive to local community context and address the transition between new and existing development. This proposal has not met this criterion.

- The existing single-family residential dwelling on the subject site aligns better with the surrounding residential context.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning Division
Report Prepared by: Femi Ojo, MCIP
PPD File # DAZ 202/2016

APPENDIX "B"

Schedule "A" for File No. DAZ 202/2016, City Lord Selkirk Community Committee, June 28, 2016

By–Law No. _____

File No. **DAZ 202/16**

Atlas Sheet No. **V23**

N

LORD SELKIRK WEST KILDONAN COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 1039 Cathedral Avenue from an "R1-M" RESIDENTIAL SINGLE-FAMILY (MEDIUM) DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to allow for the establishment of a restaurant/retail sales (bakery) use as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____