Agenda – Council – March 21, 2019

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 4, 2019

Item No. 5 Rezoning – 1181 Chamberlain Avenue
(Mynarski Ward)
File DAZ 216/2018 [c/r DCU 175961/2018D and DAV 175966/2018D]

STANDING COMMITTEE RECOMMENDATION:

On March 12, 2019, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended under Development Application No. DAZ 216/2018 by rezoning the subject land to a "C2" Commercial-Community District as shown on the map dated January 22, 2019 and attached as Schedule "A" to this report, subject to the following conditions:

    A. That the owner of the subject land (the "Owner") enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:

        i. The Owner must submit plans showing the location and design of any and all proposed:

            a. buildings;
            b. accessory parking areas;
            c. private approaches;
            d. garbage enclosures;
            e. fencing;
            f. lighting;
            g. landscaping; and
            h. free-standing signage

            on the Owner's Land ("Works") to the City's Director of Planning, Property and Development (the "Director") and the Lord Selkirk - West Kildonan Community Committee for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 4, 2019

STANDING COMMITTEE RECOMMENDATION (continued):

ii. That there shall be no billboard signs, mobile signs, or A-board signs on the entire site, except that a mobile sign shall be permitted on the site for a period of up to thirty (30) days in association with a new occupancy permit.

iii. That only the following uses shall be permitted on the land:

a. Parking, surface; and
b. Dwelling, single-family detached.

B. That the City enter into, execute and deliver with the Owner a Zoning Agreement in accordance with recommendation 1.A., and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

C. That authority be delegated to the City's Director of Planning, Property and Development to negotiate and approve the terms and conditions of the Zoning Agreement, and any Ancillary Agreements, in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

2. That, in lieu of the dedication of land, the developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of the Development Application, as determined by the City's Director of Planning, Property and Development.

3. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if a by-law to implement this report (the "By-law") is not enacted within 2 years after the date on which this report is approved by Council unless the developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

4. That, upon instruction from the Director of Planning, Property and Development, the City Solicitor/Director of Legal Services shall prepare and bring directly to Council for enactment the By-law in accordance with the above.

5. That the By-law will come into force when the Zoning Agreement is fully executed and registered in the Winnipeg Land Titles Office by way of caveat against the lands described therein.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 4, 2019

STANDING COMMITTEE RECOMMENDATION (continued):

6. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 4, 2019

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 12, 2019, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 4, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On February 19, 2019, the Lord Selkirk-West Kildonan Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended under Development Application No. DAZ 216/2018 by rezoning the subject land to a "C2" Commercial-Community District as shown on the map dated January 22, 2019 and attached as Schedule "A" to this report, subject to the following conditions:

    A. That the owner of the subject land (the "Owner") enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:

        i. The Owner must submit plans showing the location and design of any and all proposed:

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            b. accessory parking areas;
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            d. garbage enclosures;
            e. fencing;
            f. lighting;
            g. landscaping; and
            h. free-standing signage

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 4, 2019

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

on the Owner's Land ("Works") to the City's Director of Planning, Property and Development (the "Director") and the Lord Selkirk - West Kildonan Community Committee for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

ii. That there shall be no billboard signs, mobile signs, or A-board signs on the entire site, except that a mobile sign shall be permitted on the site for a period of up to thirty (30) days in association with a new occupancy permit.

iii. That only the following uses shall be permitted on the land:

a. Parking, surface; and

b. Dwelling, single-family detached.

B. That the City enter into, execute and deliver with the Owner a Zoning Agreement in accordance with recommendation 1.A., and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

C. That authority be delegated to the City's Director of Planning, Property and Development to negotiate and approve the terms and conditions of the Zoning Agreement, and any Ancillary Agreements, in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

2. That, in lieu of the dedication of land, the developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of the Development Application, as determined by the City's Director of Planning, Property and Development.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – March 4, 2019

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

3. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if a by-law to implement this report (the "By-law") is not enacted within 2 years after the date on which this report is approved by Council unless the developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

4. That, upon instruction from the Director of Planning, Property and Development, the City Solicitor/Director of Legal Services shall prepare and bring directly to Council for enactment the By-law in accordance with the above.

5. That the By-law will come into force when the Zoning Agreement is fully executed and registered in the Winnipeg Land Titles Office by way of caveat against the lands described therein.

6. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing;

and submitted the matter to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

On January 22, 2019, the Lord Selkirk-West Kildonan Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on February 19, 2019 at 5:00 p.m. in the Council Building at 510 Main Street.

RE: **Rezoning – 1181 Chamberlain Avenue**
File DAZ 216/2018

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

Prepared by: **P. Prinsloo, Committee Clerk**
Lord Selkirk-West Kildonan Community Committee

Report date: **February 20, 2019**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 19, 2019, 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 under Development Application No. DAZ 216/2018 by rezoning the subject land to a "C2" Commercial-Community District as shown on the map dated January 22, 2019 and attached as Schedule "A" to this report, subject to the following conditions:

A. That the owner of the subject land (the "Owner") enter into a Zoning Agreement with the City pursuant to subsection 240(1) of The City of Winnipeg Charter in accordance with the following:

i. The Owner must submit plans showing the location and design of any and all proposed:

a. buildings;
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on the Owner's Land ("Works") to the City's Director of Planning, Property and Development (the "Director") and the Lord Selkirk - West Kildonan Community Committee for approval prior to the issuance of any building or development permit, and thereafter must construct the Works in substantial conformance with the approved plans and maintain the Works to the satisfaction of the Director.

ii. That there shall be no billboard signs, mobile signs, or A-board signs on the entire site, except that a mobile sign shall be permitted on the site for a period of up to thirty (30) days in association with a new occupancy permit.

iii. That only the following uses shall be permitted on the land:

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b. Dwelling, single-family detached.

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C. That authority be delegated to the City's Director of Planning, Property and Development to negotiate and approve the terms and conditions of the Zoning Agreement, and any Ancillary Agreements, in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

2. That, in lieu of the dedication of land, the developer shall provide a cash payment in an amount equal to ten percent (10%) of the appraised value of the Development Application, as determined by the City's Director of Planning, Property and Development.

3. That this matter will be deemed to be concluded and all approvals in connection with this matter will expire if a by-law to implement this report (the "By-law") is not enacted within 2 years after the date on which this report is approved by Council unless the developer applies for an extension of time before the expiration of the 2 year period and Council approves the extension.

4. That, upon instruction from the Director of Planning, Property and Development, the City Solicitor/Director of Legal Services shall prepare and bring directly to Council for enactment the By-law in accordance with the above.

5. That the By-law will come into force when the Zoning Agreement is fully executed and registered in the Winnipeg Land Titles Office by way of caveat against the lands described therein.

6. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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. I totally understand the stable communities and so on and so forth, but knowing this neighbourhood since the 70s, I can tell you the population of the people living in it has actually increased quite a bit over that that time, and the parking pressures in the whole Mynarski neighbourhood has been quite immense as things have increased in residential and stuff and we do have the continued business as McPhillips was developed before me, although I have to say I remember when there was an open field across from North Gate Shopping Centre, I don't think my colleagues are quite old enough to remember that.

2. I don't think this is going to cause a problem for the neighbourhood in that there is actually a parking lot across the street on Chamberlain, so in terms of the look and feel of a neighbourhood and so on, it is a change, but I don't think it's that much of a change to a use of a property along the back lane and I'm liking the buffer, and that's why I didn't concur with our administration, but I do believe that all of the written conditions of our planner be added to this DAZ 216/2018.

PUBLIC HEARING SUMMARY

File:	DAZ 216/2018
Before:	Lord Selkirk-West Kildonan Community Committee Councillor Eadie, Chairperson Councillor Santos Councillor Sharma
Public Hearing:	February 19, 2019 January 22, 2019 Council Building, 510 Main Street
Applicant:	HTFC Planning & Design (Adam Kroeker)
Subject:	
Premises Affected:	1181 Chamberlain Avenue

Exhibits Filed:

1. Application dated October 19, 2018
2. Notification of Public Hearing dated November 29, 2018
3. Manitoba Status of Title 2917578/1
4. Letter of authorization dated September 29, 2018 from Hossein Kashefi, 1054 McPhillips Street Ltd. to HTFC Planning & Design
5. Surveyor's Building Location Certificate and sketch dated February 9, 2018
6. Plans (1 page)
7. Report from the Urban Planning Division dated January 9, 2019
8. Inspection Report
9. Communication dated January 22, 2019, from Kaveh Elahiyoun in support of the application
10. Recording of Representations of the adjourned public hearing held on January 22, 2019
11. Notice of Adjournment dated January 25, 2019
12. Communication dated February 14, 2019, from Shima Gharib in support of the application
13. Presentation in support of the application submitted by the Applicant at the public hearing
14. Recording of Representations of the adjourned public hearing held on January 22, 2019

REPRESENTATIONS:

In Support:

Adam Kroeker
Kawshik Chowdhury
Kaveh Elahiyoun
Arash Foroughi
Reza Gharib
Shima Gharib
Amirali Ghodoui
Shavareh Ghodousi
Tim Hogan
Alireza Honarbakhsh
Hossein Kashefi
Robert Martineau
Mohammed Mehr
Mohammed Mehr Blachsh
Fidel Mendoza
Marigay Mendoza
Paria Mostafai Rad

Lisa Rempel
Scott Worster

In Opposition:

Nil

For Information:

Nil

For the City:

R. Hayer, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File DAZ 216/2018

ADMINISTRATIVE REPORT

Title: DAZ 216/2018 – 1181 Chamberlain Avenue

Issue: Proposed rezoning of land from an "R1-M" district to a "C2" Commercial Community district in order to establish a surface parking lot.

Critical Path: Lord Selkirk - West Kildonan Community Committee → Standing Policy Committee on Property and Development, Heritage and Downtown 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, RPP	n/a	n/a	

RECOMMENDATIONS

That the proposed rezoning under File DAZ 216/2018 be **rejected**.

REASON FOR THE REPORT

- The applicant is proposing to rezone a residential property in a Mature Community policy area from an "R1-M" district to a "C2" district. The intent is to demolish the existing dwelling and establish a surface parking lot use on the subject property.
- This report provides information, and makes recommendations, regarding the subject application (DAZ 216/2018) in terms of compliance with *OurWinnipeg* and the *Complete Communities Direction Strategy.* This report is available to the public, City Council and committees of Council.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning Division are concurred in, the proposal cannot proceed.

SUBMITTED BY

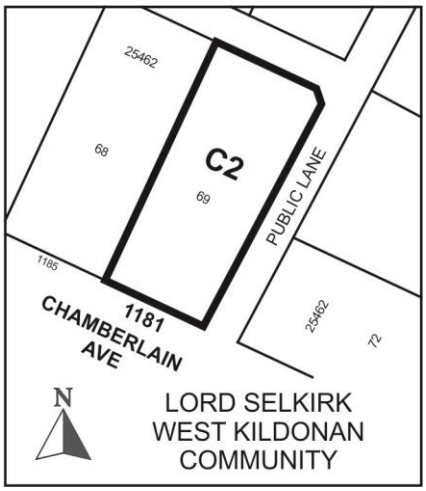
Department Planning, Property and Development
Division Urban Planning
Prepared by: Rakvinder Hayer, MCP
Date: January 9, 2019

Attachments

- Appendix “A,” Planning Discussion
- Schedule “A,” of File DAZ 216/2018, Lord Selkirk - West Kildonan Community Committee, dated January 22, 2019**.**

Appendix "A," Planning Discussion

DATE:	December 27, 2018
FILE:	**DAZ 216/2018**
RELATED FILE:	DAV 18-175966/D; DCU 18-175961/D
COMMUNITY:	Lord Selkirk - West Kildonan
NEIGHBOURHOOD #:	3.310 (Mynarski)
SUBJECT:	Proposed rezoning of land from an "R1-M" district to a "C2" district in order to establish a surface parking lot use.
LOCATION:	1181 Chamberlain Avenue
LEGAL DESCRIPTION:	LOT 69 PLAN 25462 43/4 ST J OTM



APPLICANT:	HTFC Planning & Design, Adam Kroeker 115 Bannatyne Ave, Unit 500 Winnipeg, MB R3B 0R3
OWNER:	1054 McPhillips Street LTD, Hossein Kashefi 39 Linden Ridge Drive Winnipeg, MB R3Y 1X6
RECOMMENDATION:	Rejection

SITE DESCRIPTION

- The subject site, identified on Figures 1 and 2 of this attachment, is located on the north side of Chamberlain Avenue, in the Mynarski neighbourhood and Mynarski ward.
- Under *OurWinnipeg* and *Complete Communities*, the site is within the Areas of Stability>Mature Communities policy area.
- Under *Zoning By-law no. 200/2006*, the property is zoned “R1-M” Residential Single-family (Medium) district.
- Currently on the site is a single-family dwelling built in 1955 and a detached garage.
- The property is roughly 48 feet wide and 111 feet deep; with a total lot area of approximately 5,400 square feet.
- The property has access to a public rear lane on the north side. There is also a rear lane abutting the property on the east side, which provides access to the rear of commercial properties located and fronting on the west side of McPhillips Street.



Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2016)*

SITE CONTEX SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Residential Single-family dwellings zoned “R1-M” Residential Single-family (Medium) district.

South: Chamberlain Avenue; then Residential Multi-family dwellings zoned “RMF-S” Residential Multi-family (Small) district.

East: Public lane; then Commercial properties zoned “C2” Commercial Community district.

West: Residential Single-family dwellings zoned “R1-M” Residential Single-family (Medium) district.

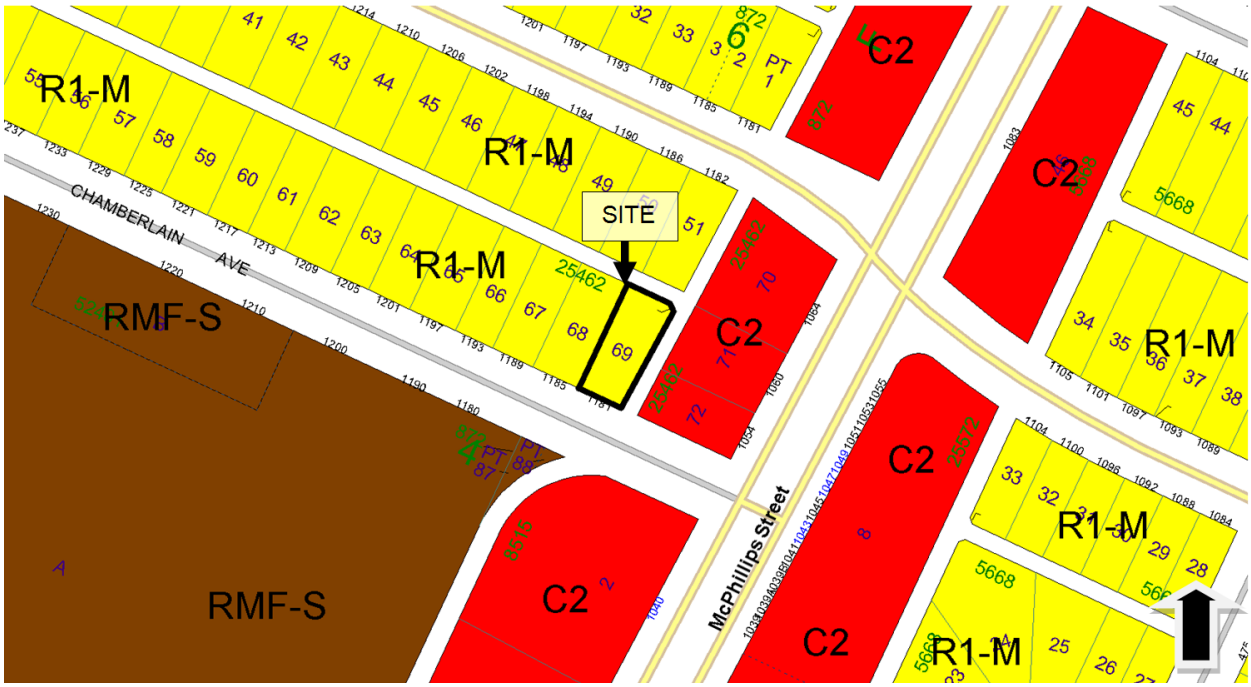


Figure 2: Existing zoning of the subject site and surrounding area.

DESCRIPTION OF THE PROPOSED REZONING

- The applicant is proposing to rezone the subject property from an "R1-M" Residential Single-family (medium) district to a "C2" Commercial-community district. The stated intent is to demolish the existing single-family dwelling and develop a new surface parking lot.
- Surface parking is a Conditional Use in the "C2" district; therefore applicant has also submitted a Conditional Use application under file DCU 18-175961/D.
- The proposed parking lot would not include the required pedestrian connection to the adjacent sidewalk or right-of-way, and would have no west side yard instead of the required 10 feet; therefore the applicant has also submitted a Variance application under file DAV 18-175966/D.

PROPOSED DEVELOPMENT

- As noted, the proposed development a surface parking lot. The existing dwelling and all accessory structures on the property would be demolished.
- Plans submitted with the application show the following:
    - 11 parking stalls that would be 8 feet wide by 20 feet deep (no accessible parking);
    - 4 feet tall light proof fence on the north, south, and east side of the parking lot;
    - 6 feet tall light proof fence along the west limit of the parking lot;
    - private approaches on the east and north sides for vehicle access from the back lane;
    - asphalt surfacing; and
    - 10 feet front yard setback with landscaping including trees and shrubs.

- The applicant contacted the Urban Planning Division in summer of 2018 to receive feedback on the proposal.
- The applicant was advised that the Division would not provide support for a rezoning application to convert the noted residential property to a non-accessory surface parking lot.
- The Division advised that there are policies to protect against the encroachment of commercial uses into residential neighbourhoods, particularly on local residential streets. The public lane abutting 1181 Chamberlain to the east serves as a divide between residential and commercial land uses.
- The applicant has submitted the subject application(s) knowing in advance that the Division's recommendation would be to reject the proposed rezoning.

ANALYSIS AND ISSUES

OURWINNIPEG AND COMPLETE COMMUNITIES DIRECTION STRATEGY

- *OurWinnipeg* is the City's development plan and *Complete Communities* is a "Direction Strategy" of *OurWinnipeg* that provides additional directions and policies on land use and development in the city.
- The site is in the "Area of Stability – Mature Communities" policy area of *OurWinnipeg* and *Complete Communities*. The Key Direction of *OurWinnipeg* and *Complete Communities* that only applies to "Areas of Stability" states:
    - *Enhance the quality, diversity, completeness and sustainability of stable neighbourhoods and expand housing options for Winnipeg's changing population.*
- Section 04 of *Complete Communities* contains Directions and Policies that also only apply to Areas of Stability. Key policies guiding development within Areas of Stability include:
    - *Promote the form of buildings and spaces that are sensitive to the community context and address the transition between new and existing developments.*
    - *Encourage intensification to occur at centres and along corridors.*
    - *Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.*

CITY OF WINNIPEG ZONING BY-LAW 200/2006

- **Residential Single-Family (R1) district:** is intended to accommodate primarily single-family residential development in lower-density areas.
- **Commercial Community (C2) district:** is intended to accommodate more intensive commercial sites that do not have a local or neighbourhood orientation. The district is intended to include attractive commercial, institutional, recreational, limited residential and service facilities needed to support the surrounding neighbourhoods and the broader community. C2 districts are generally located in Community or Regional mixed use centres or along Community or Regional mixed use corridors.

Dimensional Standards						
Zoning District	**Minimum/Maximum Front Yard (Ft.)**	**Minimum Rear Yard (Ft.)**	**Minimum Interior Side Yard (Ft.)**	**Minimum Corner Side Yard (Ft.)**	**Maximum Height of Building (Ft.)**	**Maximum Floor Area Ratio**
C2	0/NA	25 (note b)	0 (note b)	0	49	3.0
Note B:	Where a side or rear lot line in a commercial or institutional zoning district abuts a side or rear lot line of an R1 or R2 zoning district, a yard of 10 feet must be provided along the side or rear lot line in the commercial or institutional zoning district. The 10 foot 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.					

REZONING ANALYSIS

Proposed Zoning District:

- The proposed rezoning would remove an existing single-family lot from the neighbourhood and not expand housing options. Thus, the proposed rezoning is inconsistent with the Key Direction for Areas of Stability under *OurWinnipeg*.
- The proposed development would not be complimentary to the existing scale, character and built form of the block, which in this case is comprised mainly of residential dwellings. Surface parking abutting the side yard to a single-family dwelling would not be sensitive to the immediate context. Thus, the proposed rezoning would be inconsistent with policies in the *Complete Communities Direction Strategy.*
- The “C2” commercial Community zoning district is not typically located on residential streets and is intended to be located in Community or Regional mixed use centres or along Community or Regional mixed use corridors. Thus, the proposed rezoning would not be consistent with the intent of the “C2” district as defined in the Winnipeg Zoning By-law.

Compatibility with the Surrounding Neighbourhood

- The expansion of new commercial districts should be limited to corridors and established commercial areas. Where commercial lots abut residential lots, appropriate setbacks and buffering must be considered.
- In this case, existing commercial properties that front onto McPhillips Street are separated from adjoining residential properties by a rear lane. The benefit of containing commercial zoning to properties fronting on McPhillips is that it eliminates the encroachment of incompatible uses upon the residential environment and minimizes the impact of commercial development on the character of the adjacent residential district. In this way, the rear lane delineates between commercial and residential areas.
- The *Complete Communities Direction Strategy* encourages low to moderate change in Areas of Stability that is complimentary to the existing scale, character and built form. Given that the proposal is for the establishment of commercial property on a local residential street, the proposed rezoning would be inconsistent with *OurWinnipeg* and not compatible with the surrounding neighbourhood.

Other Issues:

Commercial Zoning:

- It is worth noting that, although the proposal is to rezone the lot to a “C2” zone to allow a surface parking lot use, the “C2” zone also allows for a number of uses that would not be compatible with the area. Among others, these include:
    - Office; Personal Services; Body modification establishment; Medical clinic; Retail Sales; Landscape supplies; and Private Motor Vehicle related uses.
- If the subject property were to change ownership, the lands could be developed with a number of commercial uses that may not be compatible with the area.

Commercial Encroachment:

- Also worth noting is that the subject application would set precedent for commercial zoning on the subject residential block. Such precedent could create a situation where, in the future if additional parking needs arise, adjacent residential properties could be redeveloped to expand parking.
- A common character that many of Winnipeg’s urban corridors have is that rear lanes delineate between commercial and residential lots. In this way, the rear lane is often seen as delineation between residential neighbourhoods and commercial corridors.
- Approval of the subject application could create pressure to approve similar applications to rezone residential properties for surface parking in the immediate area and others areas of Winnipeg.

Given the above noted issues, the Urban Planning and Design Division recommend rejection of the proposed rezoning.

REASONS FOR THE RECOMMENDATIONS

The Urban Planning Division recommends rejection because the proposed rezoning is inconsistent with *OurWinnipeg* and *Complete Communities*, and not compatible with the surrounding area.

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

Report Prepared by:
Rakvinder Hayer, MCP

PPD File #:
DASZ 216/2018

Schedule "A" of File DAZ 216/2018, Lord Selkirk - West Kildonan Community Committee,

January 22, 2019

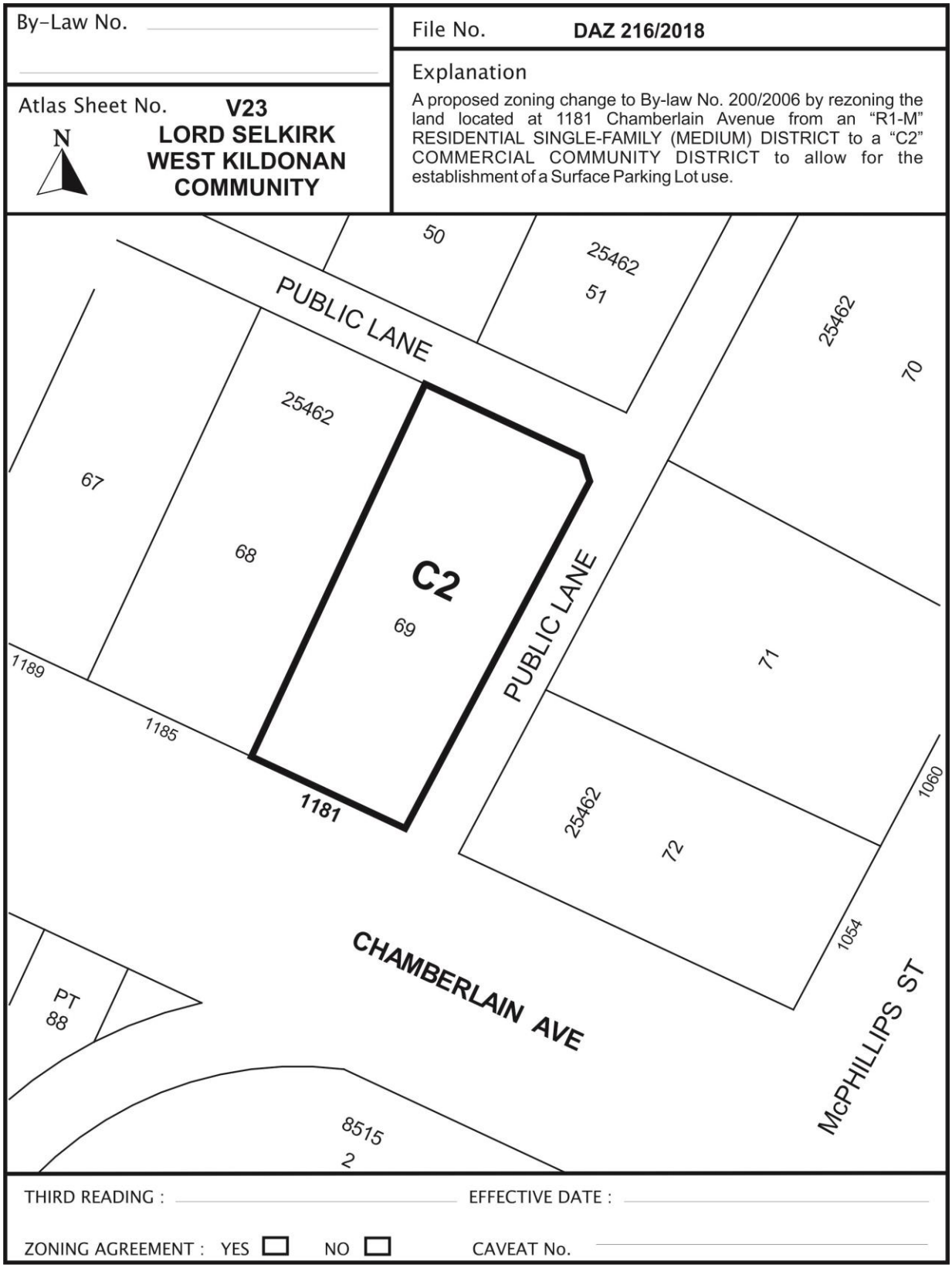


Exhibit “6” referred to in File DAZ 216/2018

