Minutes – Executive Policy Committee – June 18, 2024

Report – Standing Policy Committee on Property and Development – June 4, 2024

Item No. 11 Zoning Agreement Amendment – 2055 McPhillips Street (Old Kildonan Ward) File ZAA 5/2024

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the following to Council:

1. That Caveat No. 86-45010/1 and Caveat No. 234704/1 be discharged in their entirety, subject to the condition 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:

    A. That the following uses shall not be permitted on the land:

        i. *Deleted*
        ii. Supermarket
        iii. Drive-in or drive-through
        iv. Auto/light truck/motorcycle, repair and service
        v. Auto/light truck/motorcycle, sales and rental
        vi. Auto and supply supplies
        vii. Carwash
        viii. Fuel sales
        ix. Towing and storage facility
        x. Mini-warehouse of self-storage
        xi. Warehousing
        xii. Wholesaling
        xiii. Billboard, mobile, flashing, scintillating, rotating, and inflatable signs
        xiv. Outside display and sales
        xv. Outside storage

    B. That parking shall not be located within the westerly 50 feet of the subject site.

    C. That the Owner must submit plans showing the location and design of any and all proposed:

        i. buildings
        ii. accessory parking areas
        iii. driveways

Report – Standing Policy Committee on Property and Development – June 4, 2024

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

iv. garbage enclosures
v. fencing
vi. freestanding signage
vii. landscaping

on the Owner's Land ("Works") to the Director of Planning, Property and Development 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.

2. That the City enter into, execute and deliver with the Owner a Zoning Agreement in accordance with recommendation 1, 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").

3. That authority be delegated to the 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.

4. 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 – June 4, 2024

DECISION MAKING HISTORY:

Moved by Councillor Duncan,

That the recommendation of the Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On June 4, 2024, the Standing Policy Committee on Property and 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 May 28, 2024, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendments:

- Delete Recommendation 1.A.i. in its entirety
- In Recommendation 1.A.xiii., delete the word “Digital,”

and forwarded the matter to the Standing Policy Committee on Property and Development.

PUBLIC HEARING SUMMARY

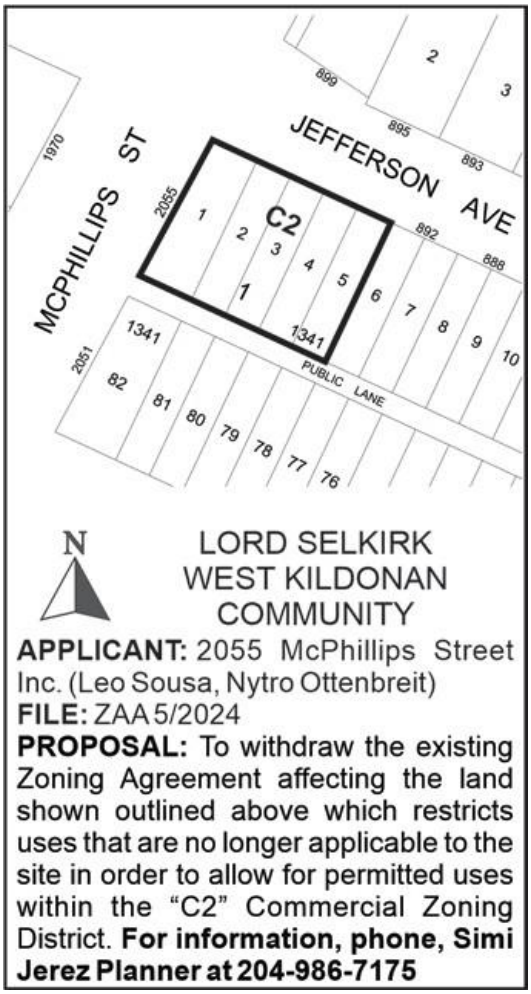
File: ZAA 5/2024

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

Public Hearing: May 28, 2024
Council Building, 510 Main Street

Applicant: Nytro Ottenbreit (Leo Sousa)

Subject:



Premises Affected: 2055 McPhillips Street

For submission to: The Standing Policy Committee on Property and Development

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

Report date: May 28, 2024

Community Committee Recommendation:

On May 28, 2024, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service, as amended, and recommended to the Standing Policy Committee on Property and Development:

1. That Caveat No. 86-45010/1 and Caveat No. 234704/1 be discharged in their entirety, subject to the condition 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:

    A. That the following uses shall not be permitted on the land:

        i. ~~***Landscaping or garden supplies***~~
        ii. Supermarket
        iii. Drive-in or drive-through
        iv. Auto/light truck/motorcycle, repair and service
        v. Auto/light truck/motorcycle, sales and rental
        vi. Auto and supply supplies
        vii. Carwash
        viii. Fuel sales
        ix. Towing and storage facility
        x. Mini-warehouse of self-storage
        xi. Warehousing
        xii. Wholesaling
        xiii. ~~***Digital,***~~ billboard, mobile, flashing, scintillating, rotating, and inflatable signs
        xiv. Outside display and sales
        xv. Outside storage

    B. That parking shall not be located within the westerly 50 feet of the subject site.

    C. That the Owner must submit plans showing the location and design of any and all proposed:

        i. buildings
        ii. accessory parking areas
        iii. driveways
        iv. garbage enclosures
        v. fencing
        vi. freestanding signage

vii. landscaping

on the Owner's Land ("Works") to the Director of Planning, Property and Development 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.

2. That the City enter into, execute and deliver with the Owner a Zoning Agreement in accordance with recommendation 1, 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").

3. That authority be delegated to the 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.

4. 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 amendments made by the Community Committee.

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

1. The existing zoning agreement on this land is from 1980 as part of a rezoning to C2 at that time McPhillips Street was a very different character, as we can all imagine.

2. The proposed amendments more reflect the current character of the area and this zoning agreement allows this land to be used in a way that aligns with the C2 zoning and the with the location on this corridor so I am pleased to move the report today.

Exhibits Filed:

1. Application dated April 20, 2024
2. Notification of Public Hearing dated April 25, 2024
3. Manitoba Status of Title 3275493/1
4. Letter of authorization dated March 27, 2024 from 2055 McPhillips Street to Leo Sousa (Nytro Ottenbreit0
5. Caveats 234704
6. Caveats 86-45010
7. Caveats 248311
8. Zoning Agreement dated the 5th day of February, A.D. 1975 between The City of Winnipeg of the First Part and of the Second Part

9. Amendment to Zoning Agreement date the 9th day of April, A.D. 1986, between The City of Winnipeg, of the First Part, and Fieldstone Estates Ltd., of the Second Part.
10. Plans (3 pages)
11. Report from the Urban Planning Division dated May 14, 2024
12. Inspection Report
13. Communication dated May 22, 2024, from Leo Sousa in support of the application
14. Communication dated May 26, 2024, from Nytro James Ottenbreit in support of the application
15. Communication dated May 27, 2024, from Leo Sousa in support of the application
16. Communication dated May 27, 2024, from Leo Sousa in support of the application
17. Recording of representations

REPRESENTATIONS:

In Support:

Leo Sousa
Nytro Ottenbreit

In Opposition:

Nil

For Information:

Nil

For the City:

S. Jerez, Planner, Planning, Property and Development

Exhibit "11" referred to in File ZAA 5/2024

ADMINISTRATIVE REPORT

Title: ZAA 5/2024 – 2055 McPhillips ST

Issue: For consideration at the public hearing to replace a Zoning Agreement under File DAZ 208/74 to allow uses permitted under the "C2" Commercial Community District, with some exceptions.

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
S. Jerez, RPP MCIP	N/A	N/A	

RECOMMENDATIONS

1. That Caveat No. 86-45010/1 and Caveat No. 234704/1 be discharged in their entirety, subject to the condition 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:
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        iii. Drive-in or drive-through;
        iv. Auto/light truck/motorcycle, repair and service;
        v. Auto/light truck/motorcycle, sales and rental;
        vi. Auto and supply supplies;
        vii. Carwash;
        viii. Fuel sales;
        ix. Towing and storage facility;
        x. Mini-warehouse of self-storage;
        xi. Warehousing;

xii. Wholesaling;

xiii. Digital, billboard, mobile, flashing, scintillating, rotating, and inflatable signs;

xiv. Outside display and sales;

xv. Outside storage.

b. That parking shall not be located within the westerly 50 feet of the subject site.

c. That the Owner must submit plans showing the location and design of any and all proposed:

i. buildings;

ii. accessory parking areas;

iii. driveways;

iv. garbage enclosures;

v. fencing;

vi. freestanding signage; and,

vii. landscaping

on the Owner's Land ("Works") to the Director of Planning, Property and Development 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.

2. That the City enter into, execute and deliver with the Owner a Zoning Agreement in accordance with recommendation 1, 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").

3. That authority be delegated to the 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.

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

REASON FOR THE REPORT

- The applicant is proposing to discharge the Zoning Agreement under File DAZ 208/74 to allow for a broader range of commercial uses within an existing multi-tenant commercial building.
- The existing Caveat registered on title restricts uses on the subject site to the following:
    - Office building and related accessory uses;
    - Music studio;
    - Retail printing store;
    - Electronics equipment retail sales and repair.

- Modification of caveats on a Land Title requires a Zoning Agreement Amendment application.
- Approval of a Zoning Agreement Amendment application requires 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 Zoning Agreement under File DAZ 208/74 will be replaced.

HISTORY

DAZ 208/74

In 1974, the subject site was rezoned to "C2", subject to a zoning agreement restricting certain uses on the property, restricting signage, and requiring Plan Approval to the Lord Selkirk West Kildonan Community Committee.

CONSULTATION

In preparing this report there was consultation with: n/a

OURWINNIPEG 2045 POLICY ALIGNMENT

Strategic Opportunity #4: Facilitate Compact, Complete Development and Increase Density
4.2 Ensure New Areas of Growth are Designed According to the Principles of Complete Communities

6.40 Commercial Areas
Facilitate the redevelopment, infill, and expansion of existing commercial areas as the preferred method of accommodating new commercial development, while also accommodating local commercial amenities in new neighbourhoods, to ensure completeness from its inception.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Strategic Opportunity 4: Facilitate Compact, Complete Development and Increase Density

4.1 Increase Strategic Infill Development that Provides Access to and Capitalizes on Existing and Planned Corridors with Frequent Transit Service.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Consideration was given as to whether this report connects to any of the specific Goals and Objectives in the PRS and it was determined that the PRS is not applicable to this specific report.

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning & Design Division
Prepared by:	Simi Jerez, RPP MCIP
Date:	May 14, 2024
File No.	ZAA 5/2024

List of Schedules and Attachments

1. Schedule A – Planning Discussion

SCHEDULE 'A'

DATE: May 14, 2024

FILE: **ZAA 5/24**
RELATED FILES: N/A
COMMUNITY: Lord Selkirk – West Kildonan
NEIGHBOURHOOD #: 3.316 - Garden City

For consideration at the public hearing to replace a Zoning Agreement under File DAZ 208/74 to allow uses permitted under the "C2" Commercial Community District, with some exceptions.

LOCATION: 2055 McPhillips ST

LEGAL DESCRIPTION: LOTS 1 TO 5 BLOCK 1 PLAN 1341 WLTO IN RL 6 PARISH OF KILDONAN



APPLICANT: 2055 McPhillips Street Inc. (Leo Sousa & Nytro Ottenbreit)
207-2055 McPhillips St
Winnipeg, MB R2V 3C6

OWNER: 2055 McPhillips Street Inc. (Leo Sousa & Nytro Ottenbreit)
207-2055 McPhillips St
Winnipeg, MB R2V 3C6

RECOMMENDATION: Approval

SITE DESCRIPTION

- The subject lands are located on the east side of McPhillips Street at the southeast corner of the intersection with Jefferson Avenue, in the Garden City neighbourhood of the Old Kildonan ward.
- The subject site is 14,295 square feet and currently occupied by a two-storey multi-tenant commercial office building, an accessory parking area at the rear of the site, and a cell phone tower at the northeast corner of the building.
- Site access is taken via an approach from Jefferson Avenue and from the flanking public lane south of the site.
- The property is located along the McPhillips Street Regional Mixed Use Corridor under the *Complete Communities Direction Strategy 2.0*, and is zoned “C2“ Commercial Community.

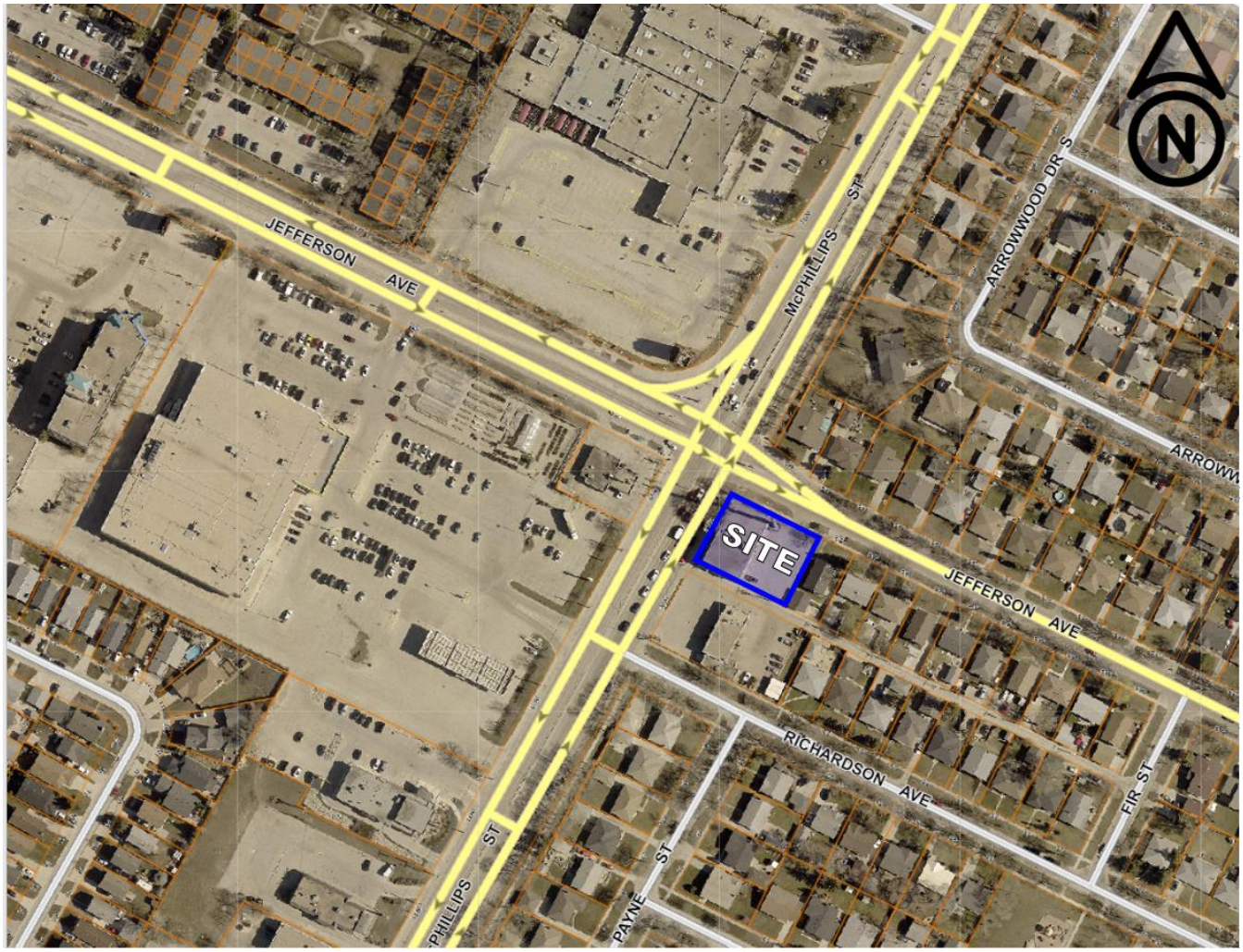


Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2021)*

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Jefferson Avenue, then residential uses zoned “R1-L” Residential Single-family (Large).

South: Public lane, then commercial uses zoned “C2“ Commercial Community.

East: Residential uses zoned “R1-L” Residential Single-family (Large).

West: McPhillips Street, then commercial uses zoned “C3” Commercial Corridor.

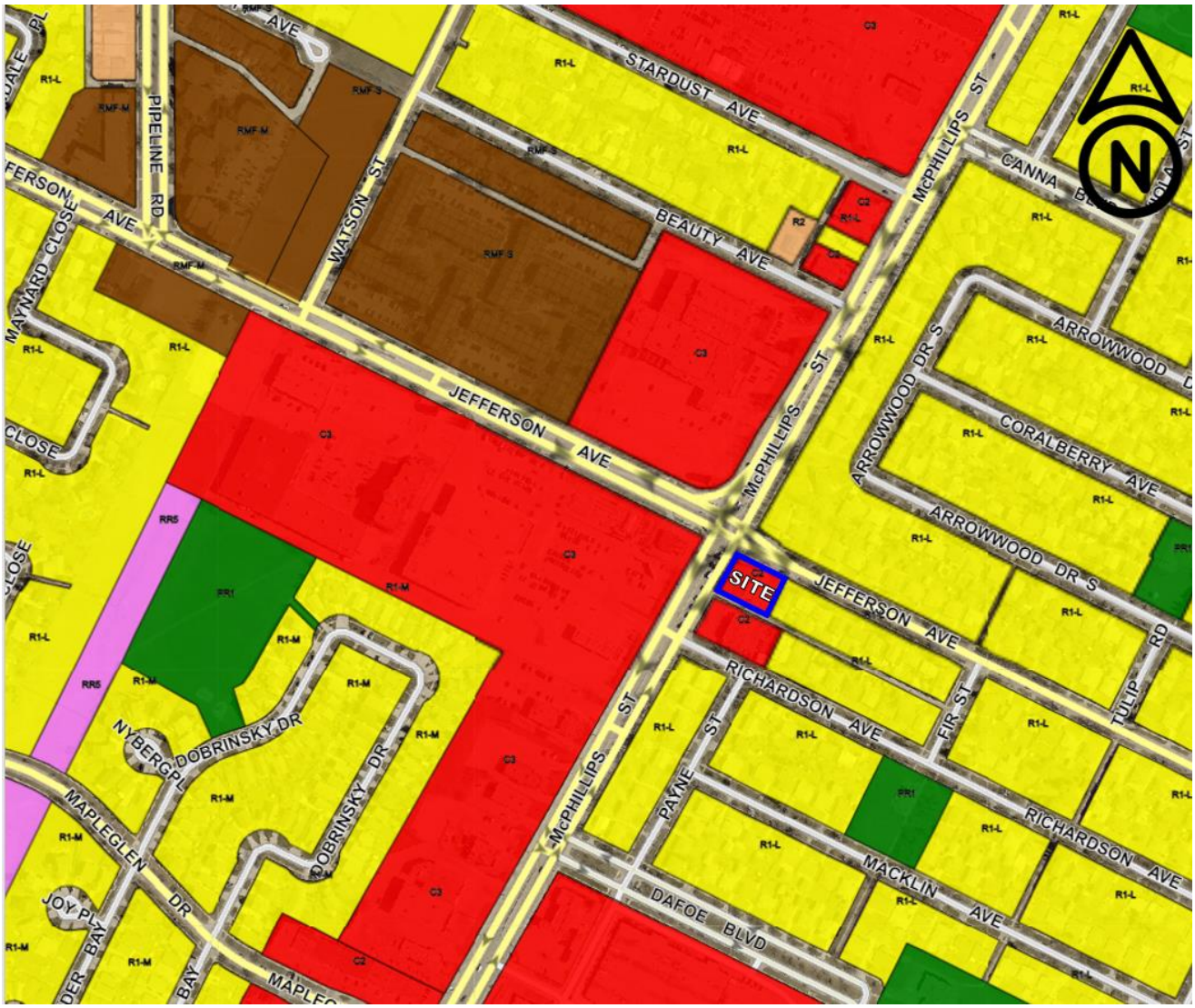


Figure 2: Zoning of the Site and Surrounding Area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to discharge the existing Zoning Agreement caveated on title when the site was rezoned to “C2” Commercial Community in 1974.
- The current zoning agreement permits music lessons, an electronics repair store, a printing store, and office uses.

- Currently the multi-tenant building has the following businesses:
    - Dental Practice
    - Chiropractor
    - Cannabis Store
    - Accounting firm
    - Logistics Company
    - Additional office uses
- The Public Service notes that the caveats appear to have been overlooked in the past as many of the businesses that are in this building (operating with occupancy permits) do not fall under the uses permitted by the current caveat.
- The applicant applied for an occupancy permit for a new tenant and the restrictions under the Zoning Agreement were noted at that time.
- No changes are proposed to the site or to the building.

COLLABORATION

The applicant has worked cooperatively with the Public Service to confirm support for the related Zoning Agreement Amendment.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY 2.0

- The *Complete Communities Direction Strategy 2.0* (CCDS 2.0) is a citywide secondary plan that guides growth, development, and land use in the city of Winnipeg.
- The site is designated as Regional Mixed Use Corridor under CCDS 2.0. Key goals and policies most relevant to this proposal include:

    Goal 3 Ensure Corridors provide a comfortable pedestrian environment and attractive public realm.

    - *Regional Mixed Use Corridors*

        3.7 Encourage development on Regional Mixed Use Corridors to enable a comfortable pedestrian environment and attractive public realm through the use of design elements which may include, but are not limited to the following:

        3.7.1 Providing minimal building setbacks from the public right-of-way to define the street edge.

        3.7.2 Having entrances provide direct access to the public sidewalk.

        3.7.3 Promoting a fine-grained and transparent street-level façade with active ground floor uses.

        3.7.4 Minimizing impacts of vehicular access and parking on the pedestrian environment.

        3.7.5 Promoting pedestrian-scale signage.

3.7.6 The extent to which pedestrian-friendly design is pursued on Regional Mixed Use Corridors will be determined by the surrounding Corridor context, but in all cases will be encouraged.

3.8 Mitigate negative shadow impacts and ensure adequate sunlight penetration experienced by rear- and side-adjacent residential properties and the public sidewalk by:

3.8.1 Using Corridor right of way width as a guide to determine maximum building height, where appropriate.

3.8.2 Using upper-level building step backs, where appropriate.

3.9 Encourage pedestrian-oriented improvements to the design of the public realm and right-of-way.
3.9.1 Encourage a high degree of landscaping and street trees in the public realm and right-of-way to offer pedestrian comfort and shade protection.

Goal 4 Use Corridors to provide local commercial amenities and opportunities for the surrounding neighbourhood and community.

- *Regional Mixed Use Corridors*

  4.3 Auto-oriented commercial uses such as those that cater to the drive-by or travelling customer as well as those requiring outdoor storage or sales may be permitted in Regional Mixed Use Corridors where:

  a. *The proponent can demonstrate compliance with the design considerations articulated in the policies under Goal 3;*
  b. *Negative impacts detracting from the potential achievement of this By-law's vision for Regional Corridors can be minimized through appropriate means; and*
  c. *Strong on-site pedestrian connectivity between buildings, parking areas, public sidewalks, and/or transit is provided.*

- *All Corridors*

  4.4 Support and protect Corridors' continued retail and service function by encouraging retail and service use intensification and by supporting reinvestment in existing Corridors.

  4.5 Encourage the location of the most active retail and service uses to ground floor commercial spaces, and direct less active uses above-grade.

  4.6 On Corridors where commercial and/or residential uses are clustered in nodes interrupted by lengths of low-density residential development, direct new commercial uses within or adjacent to these nodes.

- The proposed development meets the intent of the above CCDS 2.0 policies.

CITY OF WINNIPEG ZONING BY-LAW 200/2006

"C2 "Commercial Community"

- The "C2" Commercial Community zoning 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, and service facilities needed to support the surrounding neighbourhoods and the broader community.

Zoning Agreement DAZ 208/74

- The Urban Planning and Design Division considered whether any use restrictions should continue on the subject property. It was determined that most permitted uses in the "C2" district are suitable and supportable in this location given that the property fronts onto the McPhillips Street arterial route, which is also designated a Regional Mixed Use Corridor under CCDS 2.0.
- The McPhillips Street Corridor is characterized by a mix of commercial zoning districts, including "C2" Commercial Community and "C3" Commercial Corridor" within immediate proximity of the subject site, as well as the "C4" Commercial Regional zoned McPhillips Regional Mixed Use Centre 295 metres north of the subject site.
- The Urban Planning and Design Division recommends the following condition restricting a number of higher intensity uses permitted in the "C2" district that may not compatible with the surrounding residential neighbourhood and which may prevent transition to a higher intensity mixed use corridor in line with *CCDS 2.0* policies:

  That the following uses shall not be permitted on the land:

  i. Landscaping or garden supplies;
  ii. Supermarket;
  iii. Drive-in or drive-through;
  iv. Auto/light truck/motorcycle, repair and service;
  v. Auto/light truck/motorcycle, sales and rental;
  vi. Auto and supply supplies;
  vii. Carwash;
  viii. Fuel sales;
  ix. Towing and storage facility;
  x. Mini-warehouse of self-storage;
  xi. Warehousing;
  xii. Wholesaling;
  xiii. Digital, billboard, mobile, flashing, scintillating, rotating, and inflatable signs;
  xiv. Outside display and sales;
  xv. Outside storage.

Setback from McPhillips Street Right-of-Way to Parking Area

- The Urban Planning and Design Division recommends adding a condition requiring that the setback to parking on the subject site be a minimum of 50 feet from the west (McPhillips Street) property line, consistent with the existing site conditions and with the following *CCDS 2.0* policies related to providing a comfortable pedestrian environment and attractive public realm on Corridors:

  3.7 Encourage development on Regional Mixed Use Corridors to enable a comfortable pedestrian environment and attractive public realm through the use of design elements which may include, but are not limited to the following:

3.7.1 Providing minimal building setbacks from the public right-of-way to define the street edge.

3.7.2 Having entrances provide direct access to the public sidewalk.

3.7.3 Promoting a fine-grained and transparent street-level façade with active ground floor uses.

3.7.4 Minimizing impacts of vehicular access and parking on the pedestrian environment.

3.7.5 Promoting pedestrian-scale signage.

3.7.6 The extent to which pedestrian-friendly design is pursued on Regional Mixed Use Corridors will be determined by the surrounding Corridor context, but in all cases will be encouraged.

- The intention of the proposed condition is to ensure commercial uses are emphasized and interact directly with the street while placing vehicles out of sight at the rear of the property.

Plan Approval

- The initial Plan Approval clause under DAZ 208/74 included the use restriction of an office use as follows:

  2. *The land and any building or structure thereon shall not be used and no building or structure shall be erected, altered or enlarged on the land except as an office building or buildings and accessory uses incidental thereto constructed in accordance with the design drawings and plans describing the site and landscaping to be approved by the West Kildonan Community Committee and by the Commissioner of Environment and identified by that Commissioner's signature under the designation "Schedule A" to zoning agreement dated February 5, 1975 DAZ 208/74.*

- Clause 2 was revised in March 1976 to include a music studio, and revised again, as follows, in July 1983, to include a retail printing store:

  2. *The land and any building or structure thereon shall not be used and no building or structure shall be erected, altered or enlarged on the land for any uses except any one or more of the following:*

     (a) an office building or buildings and accessory uses incidental thereto constructed in accordance with the design drawings and plans describing the site and landscaping to be approved by the West Kildonan Community Committee and by the Commissioner of Environment and identified by that Commissioner's signature under the designation "Schedule 'A' to Zoning Agreement dated February 5, 1975 DAZ 208/74.", and no buildings or structures shall be erected or located on the land except in accordance with that Schedule "A" to this agreement,

     (b) a music studio located within such a building, provided that such use is soundproofed to the satisfaction of the Commissioner of Environment of the City, in a manner such that no sounds from that studio is heard at the property line,

     (c) a retail printing store, which operation may include the taking of printing orders and the provision of photocopying services but shall not include the operation of printing equipment on the premises.

- The Urban Planning and Design Division is recommending the following clause to separate the use restrictions from Plan Approval, and to update the Plan Approval requirements and ensure that the future development is reviewed for alignment with *CCDS 2.0* policies for Regional Mixed Use Corridors:

  That the Owner must submit plans showing the location and design of any and all proposed:

  i. buildings;

  ii. accessory parking areas;

  iii. driveways;

  iv. garbage enclosures;

  v. fencing;

  vi. freestanding signage and

  vii. landscaping

  on the Owner's Land ("Works") to the Director of Planning, Property and Development 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.

RECOMMENDATION

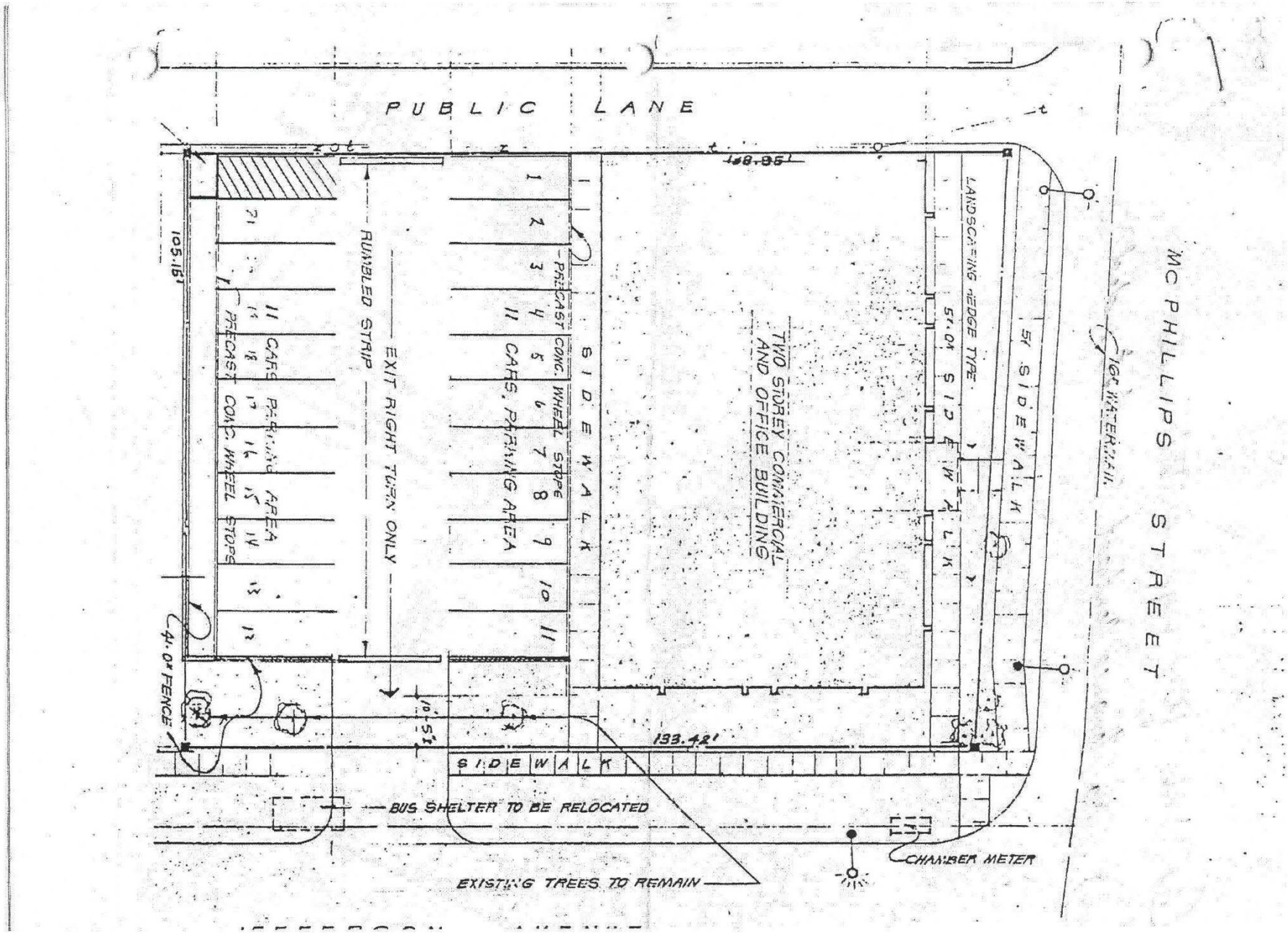
The Urban Planning Division recommends **approval** for the following reasons:

- The proposal will allow additional commercial uses along McPhillips Street within the "Regional Mixed Use Corridor" policy area, per the objectives of the *Complete Communities Direction Strategy 2.0*.
- Replacing the Zoning Agreement associated with DAZ 208/74 will enable the subject property to develop in alignment with established "C2" zoning rights and in a fashion consistent with other "C2" zoned properties along the McPhillips Regional Mixed Use Corridor.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning & Design Division

Report Prepared By: Simi Jerez, RPP MCIP
PPD File # ZAA 5/24

Exhibit “10” referred to in File ZAA 5/2024



2ND FLOOR – 2055 McPhillips - PLAN

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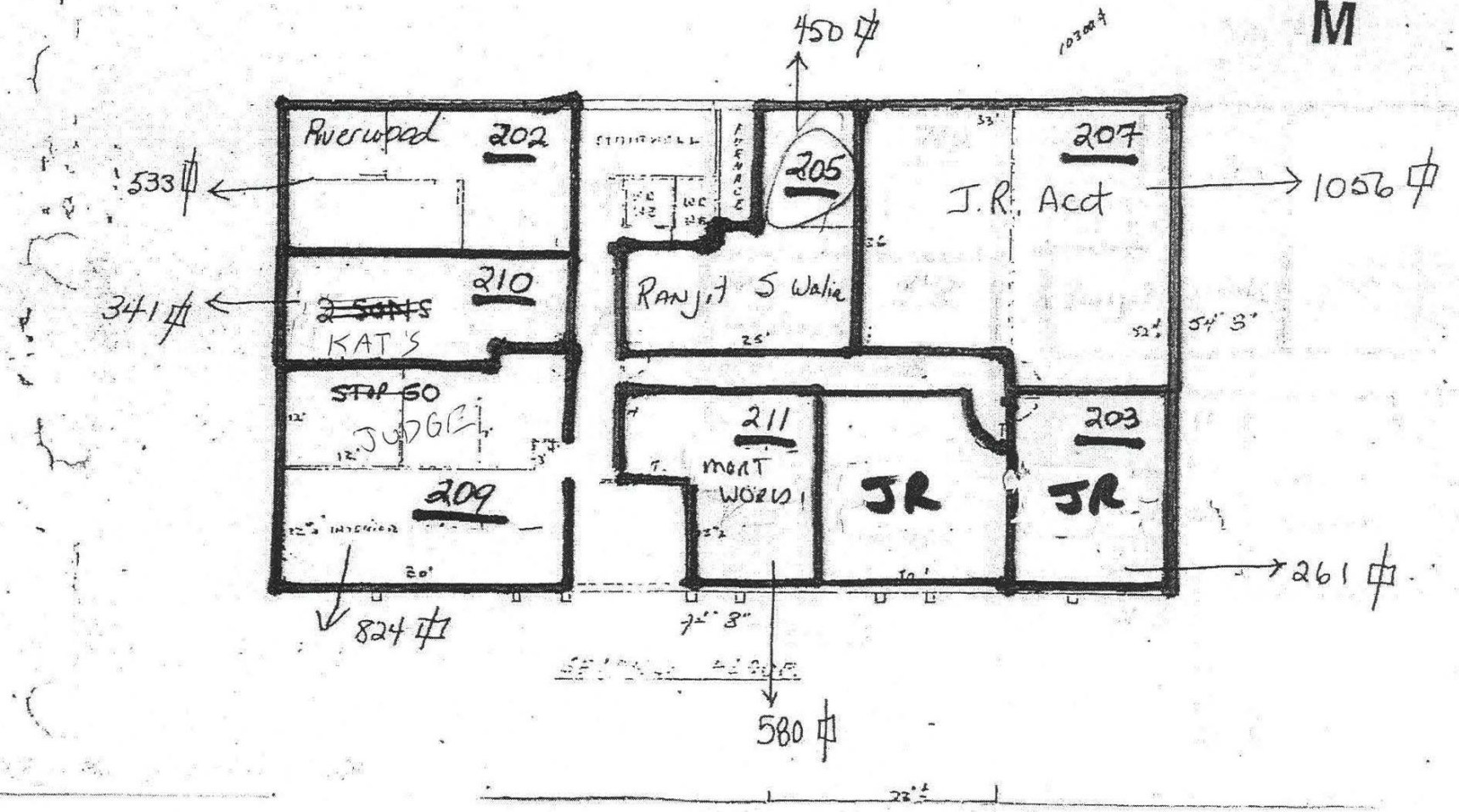

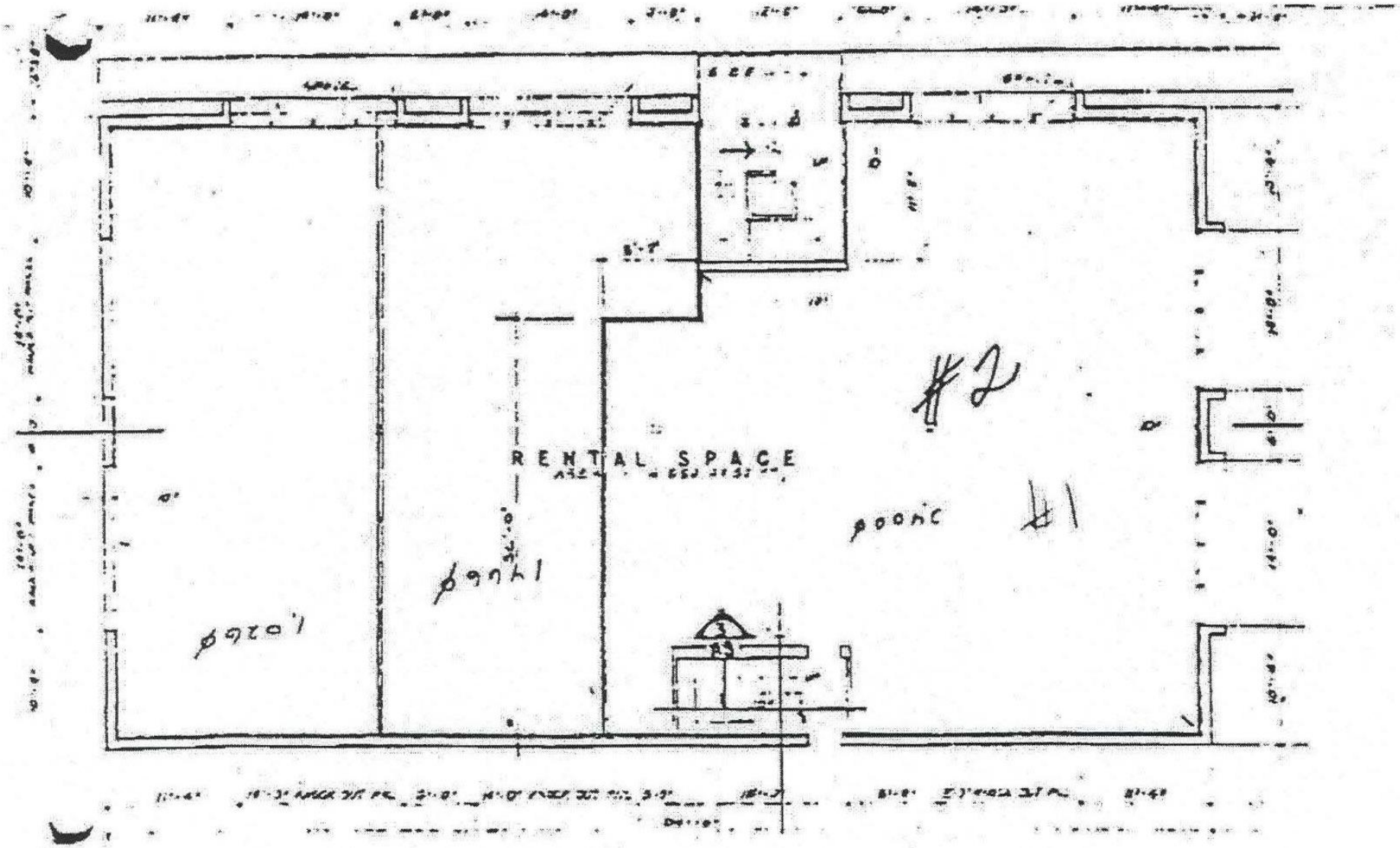
RENTAL SPACE
#2
#1