**Minute No. 233**
**Report - Standing Policy Committee on Property and Development - February 1, 2005**

**Item No. 14 Rezoning - 305 McPhillips Street**
**File DAZ 273/2004**

COUNCIL DECISION:

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

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 273/2004 dated December 29, 2004, to a "C2" Commercial District.

2. That a ten per cent (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 the 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 City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

5. 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 - February 1, 2005**

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 16, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On February 1, 2005, 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 January 11, 2005, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

**RE:** **Rezoning - 305 McPhillips Street**
**File DAZ 273/2004 [c/r DAV 338294/2004D]**

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

**Prepared by:** **Diane Timmins, Clerk,**
**Lord Selkirk-West Kildonan Community Committee**

**Report date:** **January 25, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On January 11, 2005, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for File DAZ 273/04, dated December 29, 2004, to a "C2" Commercial District.

2. That a ten per cent (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 the 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 City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

5. 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 reason for its recommendation:

1. The Lord Selkirk-West Kildonan Community Committee agreed with the administrative comments contained in the report of the Manager of Planning and Land Use dated December 29, 2004.

## PUBLIC HEARING SUMMARY

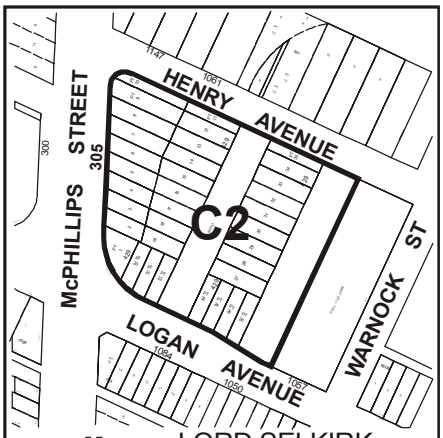
File: DAZ 273/2004 [c/r DAV 338294/2004D]

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Lazarenko, Chairperson
Councillor O'Shaughnessy
Councillor Pagtakhan

Public Hearing: January 11, 2005
Council Chamber, Council Building
510 Main Street

Applicant: Pitblado, Barristers and Solicitors (Cameron Funk)

Subject:




Premises Affected: 305 McPhillips Street

Exhibits Filed: 1. Application dated December 13, 2004

2. Notification of Public Hearing dated December 15, 2004
3. Manitoba Status of Titles 1183544, 1184363, 1183531, 1184365, 1184368, 1183533, 1184358, 1183520
4. Surveyor's Building Location Certificate and sketch dated July 15, 1991
5. Letter of Authorization dated November 23, 2004, from Susan Stein and Bennie Nathan Tessler to Pitblado, Barristers and Solicitors
6. Site Plan
7. Drawings of subject property (3 pages)
8. Report from the Manager of Planning and Land Use dated December 29, 2004
9. Inspection Report

REPRESENTATIONS:

In Support:
Cameron Funk, Pitblado, Barristers and Solicitors
Ernesto Tuano

In Opposition:
Nil

For Information:
Nil

Mr. D. Marsh, Planner, Planning, Property and Development Department
Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Cameron Funk, on behalf of the applicant, Pitblado, Barristers and Solicitors, appeared in support of the application. Mr. Funk stated concurrence in the recommendations outlined in the report of the Manager of Planning and Land Use dated December 29, 2004, with the exception of the recommendation for the ten per cent (10%) dedication, which he requested be waived. Committee was advised the ten per cent (10%) dedication is estimated at $25,000.00, and would present an undue hardship to his client, Giant Tiger. In this connection, Mr. Funk put forward the argument that the strip mall located on the subject property has been in operation for the last thirty-eight (38) years, and that the rezoning application was necessitated by changes to The City of Winnipeg Charter, which has resulted in a reduction in the value of the property. In this connection, Mr. Funk drew Committee's attention to the fact that the "C2" zoning applied for,

will not result in a change of use of the subject property, but merely allow his client to establish a wider range of commercial uses. In response thereto, the Planner, Mr. Marsh, stated it was difficult to argue the artificial decrease in the value of the subject land and suggested that one could argue that for the past thirty-eight (38) years, the property owner has enjoyed a lower assessment of the property inasmuch as the property owner has been paying for an industrial zoning classification while the property was being used for commercial purposes.

Exhibit "8" referred to in File DAZ 273/2004 [c/r DAV 338294/2004D]

Winnipeg

## Planning, Property and Development Department Report

### To the Lord Selkirk – West Kildonan Community Committee

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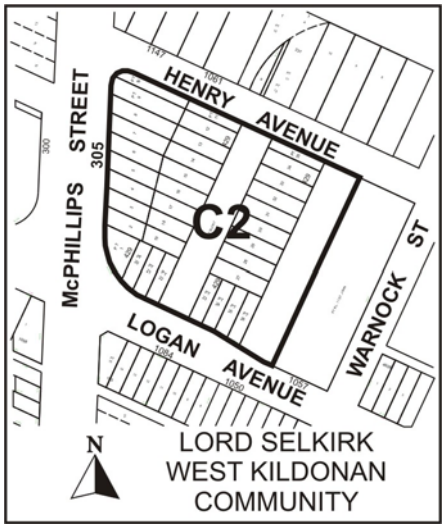
**Date:** December 29th, 2004
**File:** DAZ 273/04
**Related Files:** DAV 04-338294D
**Subject:** Amend By-Law No. 6400/94 by rezoning the land shown below from a "M2" & "M3" Industrial District to a "C2" Commercial District.

**Location:** 305 McPhillips St.
**Legal Description:** None provided.




**Applicant:** Pitblado Barristers & Solicitors
**Owner:** Bennie Tessler & Susan Stein

**Recommendation:** Approval with conditions.

**Report Summary:**

- Rezoning of existing commercial centre into a more appropriate zoning district, and allow for a broader range of permitted uses
- The existing centre is compatible with surrounding properties

## Site Description

*Existing Land Use and Zoning:*

The site in question is zoned "M2" & "M3" Industrial, and is currently occupied by a commercial strip centre. The site in question is approximately 126,000 square feet (2.89 acres) total in size.

*Surrounding Land Use and Zoning:*

North: Henry Ave, then industrial buildings (M2 & M3)
South: Logan Ave, then industrial buildings (M2 & M3)
East: City of Winnipeg Animal Control (M3), then Warnock St.
West: McPhillips St, then commercial buildings (C2)




**Aerial of Subject Site and Surrounding Properties**

## Description of the Proposed Development

The applicant wishes to rezone the existing commercial development from its current zoning of "M2" & "M3" Industrial to "C2" Commercial to permit the establishment of a wider number of commercial uses. The existing commercial centre has developed under the existing zoning,

which permits selected commercial uses. The applicant has also applied for a use variance for the subject site (see related file DAV 04-338294D).

**Analysis**

The Planning & Land Use Division has no objections to the proposed rezoning. The rezoning will in essence bring the existing commercial development into an appropriate commercial zoning. The commercial development has been in existence for some time, and is compatible with the surrounding land uses.

*Plan Winnipeg Compliance:*

The subject parcels fall with a designated Industrial Policy Area under Plan Winnipeg which allows for a variety of industrial, employment, and compatible commercial uses; thus, the proposed rezoning is in conformance with Plan Winnipeg 2020.

**Recommendation**

The Planning and Land Use Division recommends approval for the following reasons:

- The proposed rezoning is in compliance with Plan Winnipeg and its policies;
- The proposed rezoning is compatible with the surrounding properties;
- The proposed rezoning will bring the existing commercial centre into a more appropriate zoning district.

**Recommended Conditions of Approval**

1. That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 273/04, attached hereto and dated December 29th, 2004, to a "C2" Commercial District.

2. That a ten per cent (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 the 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 City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

5. 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.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division
Report Prepared by: David Marsh AICP, Planner PPD File # 300 (.101)

**Schedule "A"**

By-Law No. _____

File No. **DAZ 273/04**

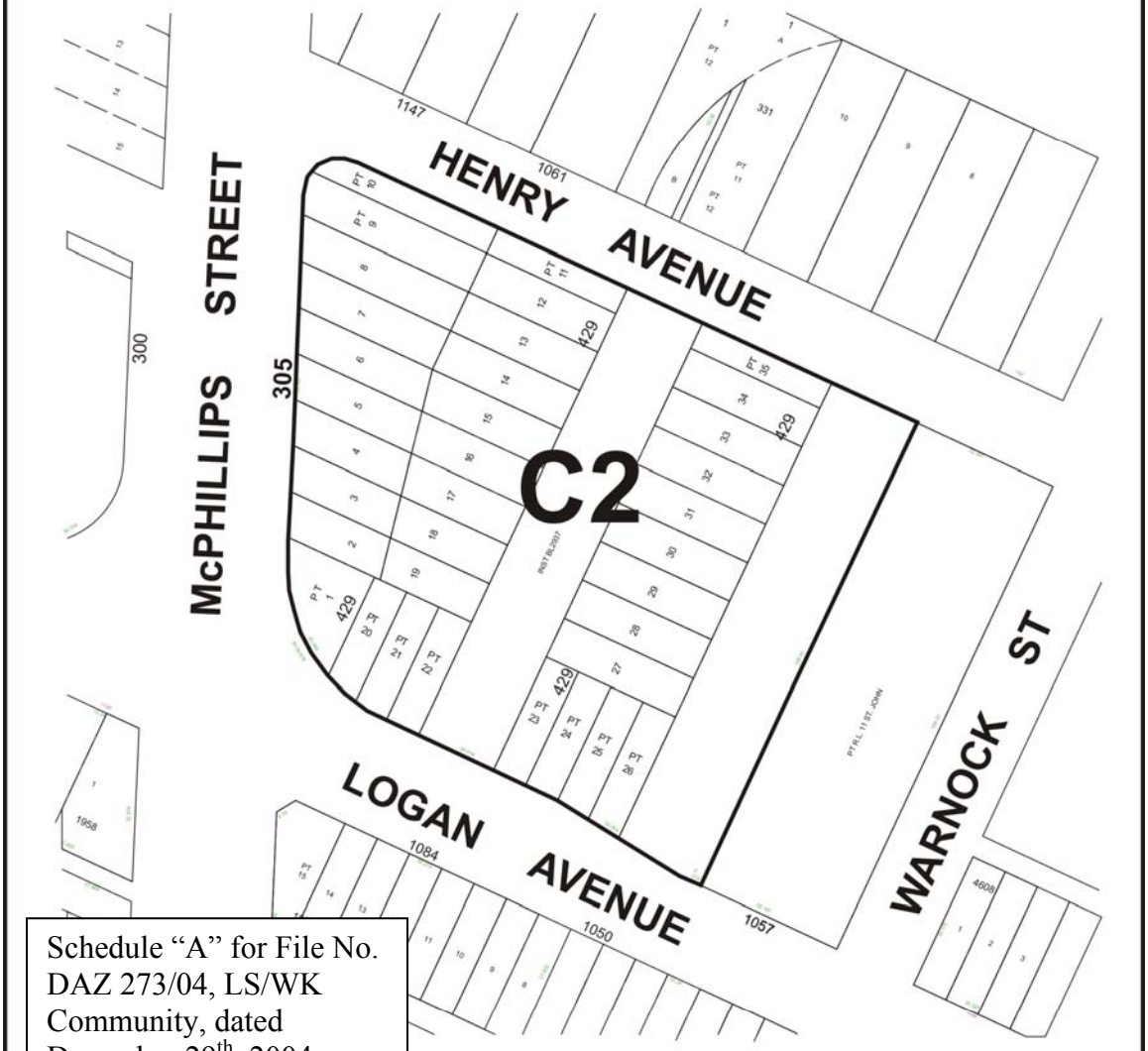
Explanation

A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 305 McPhillips Street from an "M2" INDUSTRIAL DISTRICT and an "M3" INDUSTRIAL DISTRICT to a "C2" COMMERCIAL DISTRICT as shown outlined below.

Atlas Sheet No. **X23**

N

**LORD SELKIRK WEST KILDONAN COMMUNITY**




Schedule "A" for File No. DAZ 273/04, LS/WK Community, dated December 29th, 2004

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____