Agenda – Council – December 14, 2005

Report - Standing Policy Committee on Property and Development - November 29, 2005

Item No. 8 Subdivision and Rezoning – 647 / 649 / 653 / 655 Henderson Highway File DASZ 25/2005 [c/r SPA 1/2005]

STANDING COMMITTEE RECOMMENDATION:

On December 7, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee and submits the following to Council:

1. That the plan of subdivision proposed under File No. DASZ 25/2005 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor for registration in the Winnipeg Land Titles Office.

2. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

3. That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File No. DASZ 25/2005 dated October 12, 2005, to a "C2" Commercial District subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions

    A. That for the development of any building, and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the East Kildonan - Transcona Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development;

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

        i. bank, credit union
        ii. banking/teller machines, automated
        iii. dwelling, single-family
        iv. parking area, accessory
        v. parking area, non-accessory

Report - Standing Policy Committee on Property and Development - November 29, 2005

C. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with a new occupancy permit;

D. That no illuminated signage be erected on the east side of the building.

E. That there be no flashing or scintillating signs.

F. That prior to the issuance of any permits all garbage containers be fully enclosed by a brick/concrete, and/or wood barrier fence that is at least six (6) inches above the top of the garbage containers, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development;

G. That direct or indirect access to the rear public lane for any accessory/non-accessory parking area with eight (8) or more parking stalls shall be restricted.

H. That a brick/concrete and/or wood barrier fence six (6) feet in height shall be constructed along the southerly one hundred and thirty (130) feet of the east property line abutting the rear public lane.

4. 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 and the creation of additional sites.

5. 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.

6. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

7. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

8. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

Report - Standing Policy Committee on Property and Development - November 29, 2005

9. That the Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

10. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

11. 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 - November 29, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 7, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 29, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On November 1, 2005, the East Kildonan-Transcona Community Committee did not concur in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning – 647 / 649 / 653 / 655 Henderson Highway**
File DASZ 25/2005 [c/r DAV 137528/2005D, SPA 1/2005]

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

Prepared by: **Inga K. Skundberg, Clerk**
East Kildonan-Transcona Community Committee

Report date: **November 14, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 1, 2005, the East Kildonan-Transcona Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File No. DASZ 25/2005 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor, for registration in the Winnipeg Land Titles Office.

2. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

3. That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File No. DASZ 25/2005, dated October 12, 2005, to a "C2" Commercial District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter, to include the following conditions

    A. That for the development of any building, and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the East Kildonan - Transcona Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development;

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

        i. bank, credit union
        ii. banking/teller machines, automated
        iii. dwelling, single-family
        iv. parking area, accessory
        v. parking area, non-accessory

C. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with a new occupancy permit;

D. That no illuminated signage be erected on the east sides of the building.

E. That there be no flashing or scintillating signs.

F. That prior to the issuance of any permits, all garbage containers be fully enclosed by a brick/concrete, and/or wood barrier fence that is at least 6 inches above the top of the garbage containers, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development;

G. That direct or indirect access to the rear public lane for any accessory/non-accessory parking area with eight (8) or more parking stalls shall be restricted.

H. That a brick/concrete, and/or wood barrier fence 6 feet in height shall be constructed along the southerly 130 feet of the east property line abutting the rear public lane.

4. 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 and the creation of additional sites.

5. 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.

6. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

7. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

8. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office, and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

9. The Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

10. In the event that the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

11. 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 East Kildonan-Transcona Community Committee provided the following supporting reasons for its recommendation:

1. The community has indicated its willingness to support the proposal.

2. The subject application supports retaining financial institutions in the community within reason.

3. The entrance and exit approach will be from Henderson Highway and not the public lane.

PUBLIC HEARING SUMMARY

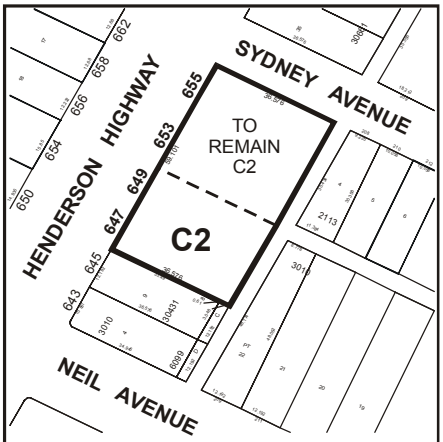
File: DASZ 25/2005 [c/r DAV 137528/2005D, SPA 1/2005]

Before: East Kildonan-Transcona Community Committee
Councillor Lubosch, Chairperson
Councillor Thomas
Councillor Wyatt

Public Hearing: November 1, 2005
Community Committee Chamber
755 Henderson Highway

Applicant: Assiniboine Credit Union (Shirley Timm-Rudolph)

Subject:



EAST KILDONAN TRANSCONA COMMUNITY

APPLICANT : ASSINIBOINE CREDIT UNION

FILE : DASZ 25/05

PROPOSAL : An application for the approval of the plan of subdivision shown outlined above as may be determined by Council and for a proposed zoning change to By-law No. 6400/94 by rezoning the land shown outlined above from an "R1-4" RESIDENTIAL DISTRICT to a "C2" COMMERCIAL DISTRICT. **For information, phone Mr. J. Wintrup, Planner at 986-5102.**

Premises Affected: 647/649/653/655 Henderson Highway

Exhibits Filed:

1. Application dated June 29, 2005
2. Notification of Public Hearing dated October 13, 2005
3. Manitoba Status of Titles 1341116, 1368225, 1368836
4. Surveyor's Building Location Certificate and sketch dated May 30, 2005
5. Letter of authorization dated June 1, 2005 from Mr. R. McMurtry, Manager, Henderson Highway Branch, Assiniboine Credit Union, to Shirley Timm-Rudolph, 1st Star Consulting Limited
6. Plans by HDS Technical Consultants (7 pages)
7. Special Plot Plan
8. Plans (2 pages)
9. Report from the Manager of Planning and Land Use dated October 12, 2005
10. Inspection Report
11. Communication dated October 20, 2005 from Pam Tonsaker in support of the application
12. Presentation dated November 2005 submitted by Shirley Timm-Rudolph, 1st Star Consulting Limited, in support of the application
13. Petition in support of the application purporting to contain the signatures of 540 people, submitted by Shirley Timm-Rudolph, 1st Star Consulting Limited

REPRESENTATIONS:

In Support:

Shirley Timm-Rudolph
Gerry Campbell
Ray McMurtry
Pam Tonsaker

In Opposition:

R.M. Peppin

For Information:

Francesca Bova

For the City:

Mr. J. Wintrup, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Shirley Timm-Rudolph appeared in support of the application, and read into the record her presentation, filed as Exhibit 12. In addition, she submitted a petition in support of the application, filed as Exhibit 13.

Councillor Thomas commented that previously, some residents of the immediate area expressed concern. After examining the petition in support of the application, she expressed her opinion that the applicant has made an effort to involve the community and that area residents are now prepared to support the proposed change.

Shirley Timm-Rudolph indicated that staff parking will remain at the back of the building; however, the general parking area will be enclosed with fencing and public access will be on Henderson Highway.

Exhibit "9" referred to in File DASZ 25/2005 [c/r DAV 137528/2005D, SPA 1/2005]

Winnipeg

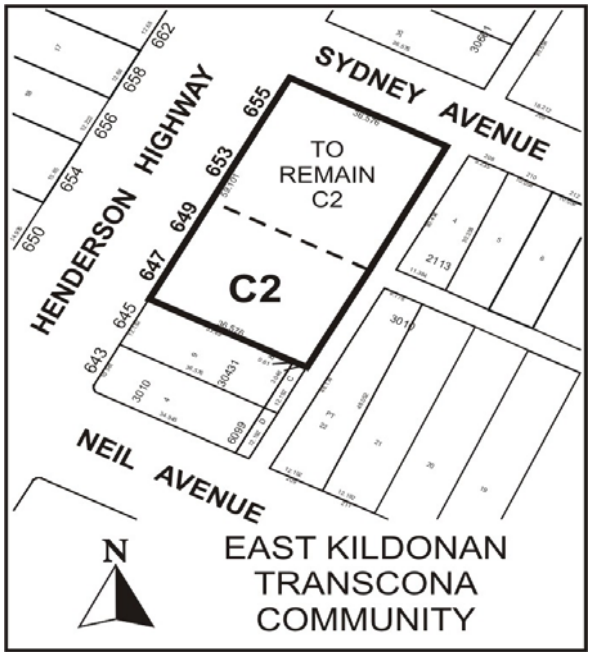
Planning, Property and Development Department Report

To the East Kildonan - Transcona Community Committee

Date: October 12, 2005
File: DASZ 25/05
Related Files: DAZ 240/76; DAV 52/78; SPA 02/97; DAZ 222/97; SPA 01/2005; DAV 05-137528D

Subject: Rezone the land to facilitate the demolition of houses and the expansion of an accessory parking area.

Location: 647 and 649 Henderson Hwy
Legal Description: Lots 4, 5, 6 and 7, Plan 3041



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Applicant: Assiniboine Credit Union (Shirley Timm-Rudolph)

Recommendation: Denied

Report Summary:

- An application has been made to amend the **Henderson Highway Corridor Action Area Plan** to allow the rezoning of land designated for residential to commercial in order to facilitate the demolition of two (2) houses and the construction of an accessory parking area to increase the total number of parking stalls by 6.
- It is recommended that the East Kildonan – Transcona Community Committee recommend the application for an amendment to the Henderson Highway Corridor Action Area Plan under File **SPA 2/2005**, and **By-law No. 163/2005**, not be proceeded with.
- It is recommended that the East Kildonan – Transcona Community Committee recommend denial of **DASZ 25/2005**, the proposed rezoning that is accompanying the Henderson Highway Corridor Action Area Plan Amendment.
- The rezoning is not consistent with the established character and nature of the surrounding area of low-density, single family dwellings with well landscaped front yards.

Site Description

The subject properties are located on the east side of Henderson Highway, north of Neil and south of Sydney Avenues in the Munroe West neighbourhood of the Elmwood – East Kildonan Ward. The subject properties are zoned "R1-4" Single Family District. The lot at **647 Henderson Hwy** is **5,028 square feet** with **40 feet** of frontage on Henderson Hwy. The lot at **649 Henderson Hwy** is **5,214 square feet** with **43.5 feet** of frontage on Henderson Hwy.

Adjacent properties to the north include 653 and 655 Henderson Highway which is zoned "C2" Commercial and is occupied by the Assiniboine Credit Union. Adjacent properties to the south include 643 and 645 Henderson Hwy zoned "R1-4" Single Family District and occupied by single family dwellings.

Surrounding properties to the west across Henderson Hwy are single family dwellings zoned "R1-5", and to the east across the public lane, single family dwellings zoned "R1-4".

Background

In 1976, the existing location of the credit union building was rezoned from residential to commercial (**DAZ 240/76**). Two houses were demolished (one lot was vacant). The Department advised at that time the proposed development would extend the commercial strip along this portion of Henderson Highway where single family dwellings were the predominant land use.

In 1980, the East Kildonan-Transcona Community Committee directed the Administration to prepare a secondary plan for the whole of Henderson Highway from the Disraeli Bridge to the Kildonan Corridor (Chief Peguis Trail), in response to the increasing number of development applications for housing demolition, commercial rezoning and substantial public opposition.

The **Henderson Highway Corridor Action Area Plan** (HHCAAP) was approved by City Council on February 2, 1983.

On October 6, 1997 the Assiniboine Credit Union made application to amend the Henderson Highway Corridor Action Area Plan (**SPA 2/97**) and rezone the properties to commercial (**DAZ 222/97**). At the Public Hearing on December 9, 1997 the East Kildonan – Transcona Community Committee decided to lay over the application and directed a review of the Henderson Highway Corridor Action Area Plan be undertaken. The Credit Union withdrew its applications.

On July 5, 2001, Standing Policy Committee on Property and Development directed the administration to proceed with a review of the Henderson Highway Corridor Action Area Plan.

On December 4, 2001, The East Kildonan – Transcona Community Committee concurred in and forwarded to the Standing Policy Committee on Property and Development the recommendation from the Administration:

That the existing interpretation of the Plan continue to be recognized, this being to prohibit commercial redevelopment of single-family residential properties on Henderson Highway in order to preserve the existing neighbourhoods and to maintain the stability of the residential development presently existing on Henderson Highway.

On June 29, 2005 the Assiniboine Credit Union made application to amend the Henderson Highway Corridor Action Area Plan. The adoption of the Secondary Plan as a by-law requires First Reading at Council and then a Public Hearing prior to Second and Third Reading at Council. On September 28, 2005 Council gave By-law **No. 163/2005** First Reading and authorized the scheduling of a Public Hearing at the East Kildonan –Transcona Community Committee.

Description of the Proposed Development

The land owner intends to demolish the existing single family dwellings and expand their accessory parking area. The existing **3,700 square foot** credit union building has **16 parking stalls** on a 13,000 square foot lot**.** Eight parking stalls have access from a private approach on Henderson Highway and 8 have direct access from the rear public lane. The new parking area will be expanded south to provide a total of **22 parking stalls** for the credit union building, for an increase of **6 parking stalls**. Access will continue to be provided from Henderson Highway and the public lane.

Analysis

PLAN WINNIPEG
The proposed concept complies with Plan Winnipeg in that a commercial rezoning is allowed in Neighbourhood Policy Areas.

ZONING

- The **"R1-4" Single Family Residential District** requires a minimum lot size of 4,000 square feet and a minimum lot width of 40 feet and a minimum front yard of 20 feet.
- A **"C2" Commercial District** has 104 Permitted Uses and 47 Conditional Uses that are generally orientated to a community wide market. There is no front yard requirement.
- The existing commercial use exceeds the minimum zoning by-law requirement of **14 parking stalls** since 16 are currently provided.
- A 41 foot front yard is required due to the proposed commercial lot abutting a residential zoned lot. A variance has been applied to reduce the required yard down to 20 feet (**DAV 05-137528D**).

SECONDARY PLAN
Henderson Highway Corridor Action Area Plan
Since the inception of the plan, there has not been any additional erosion of residential property along the Highway. The redevelopment of existing commercial properties is promoted, but not the conversion of residential properties. A majority of residential properties along the Highway tend to be predominantly well maintained, with very few in decline. Well-maintained properties are especially noted along the section of Henderson Highway that has been the primary target for commercial redevelopment in the past (the north west side of Henderson Highway). There has not been any additional commercial encroachment into the residential sections along Henderson Highway.

As described in the Plan (Policy ii – Objective iii), the remaining single-family properties between Edison and McKay along the east side have been redeveloped to commercial uses (with the exception of one home on the south end of the block). This remaining residence is available for redevelopment at the property owner's desire.

Generally, the design criteria that has been implemented was intended to minimize the impact of commercial development upon the character of the adjacent residential areas. Clause 3 outlines these policies as:

3. (i) To encourage the retention of the existing low-density residential areas within the plan area.

(ii) Notwithstanding policy (i) aforesaid, sensitive development proposals may be entertained for the remaining single-family properties on the east side of Henderson Highway between Edison Avenue and McKay Avenue.

(iii) Subject to policies (i) and (ii) aforesaid, to encourage the following minimum design criteria when evaluating proposals for commercial development:

a) ***Commercial redevelopment should only involve complete block redevelopment;***
b) ***Access to commercial sites should only occur from the fronting arterial street;***

The proposed subdivision and rezoning is not consistent with these policies that guide commercial development on Henderson Highway. Besides not retaining the existing low-density residential area, the development is not a complete block redevelopment. This development will result in a parking area adjacent to a single family dwelling. The residual parcels of land on the block at 643 and 645 Henderson Hwy will be subject to development pressures to convert to commercial uses. The redevelopment will continue to have 6 parking stalls with direct access from the public lane.

COMPATIBILITY WITH SURROUNDING USES
The remainder of the block to the south of the proposed new parking area is developed with one-storey dwellings that appear to be well maintained and in good condition. Directly to the east across the rear public lane, and to the west across Henderson Hwy are single family dwellings that all appear to be in good condition. The nearest commercial strip to the south is 6 blocks away between Ottawa and Washington Avenues. The nearest commercial strip to the north is between Sydney and Melbourne Avenues. Both locations of commercial uses are complete block commercial developments.

Recommendation

That, the application be **Denied.**

That, this development is an inappropriate commercialization that will not preserve and protect the adjacent residential neighbourhoods.

That, the existing interpretation of the Plan continue to be recognized, this being to prohibit commercial redevelopment of single-family residential properties on Henderson Highway in order to preserve the existing neighbourhoods and to maintain the stability of the residential development presently existing on Henderson Highway.

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

Report Prepared by: John S. Wintrup
PPD File # DASZ 25/05

Schedule "A"

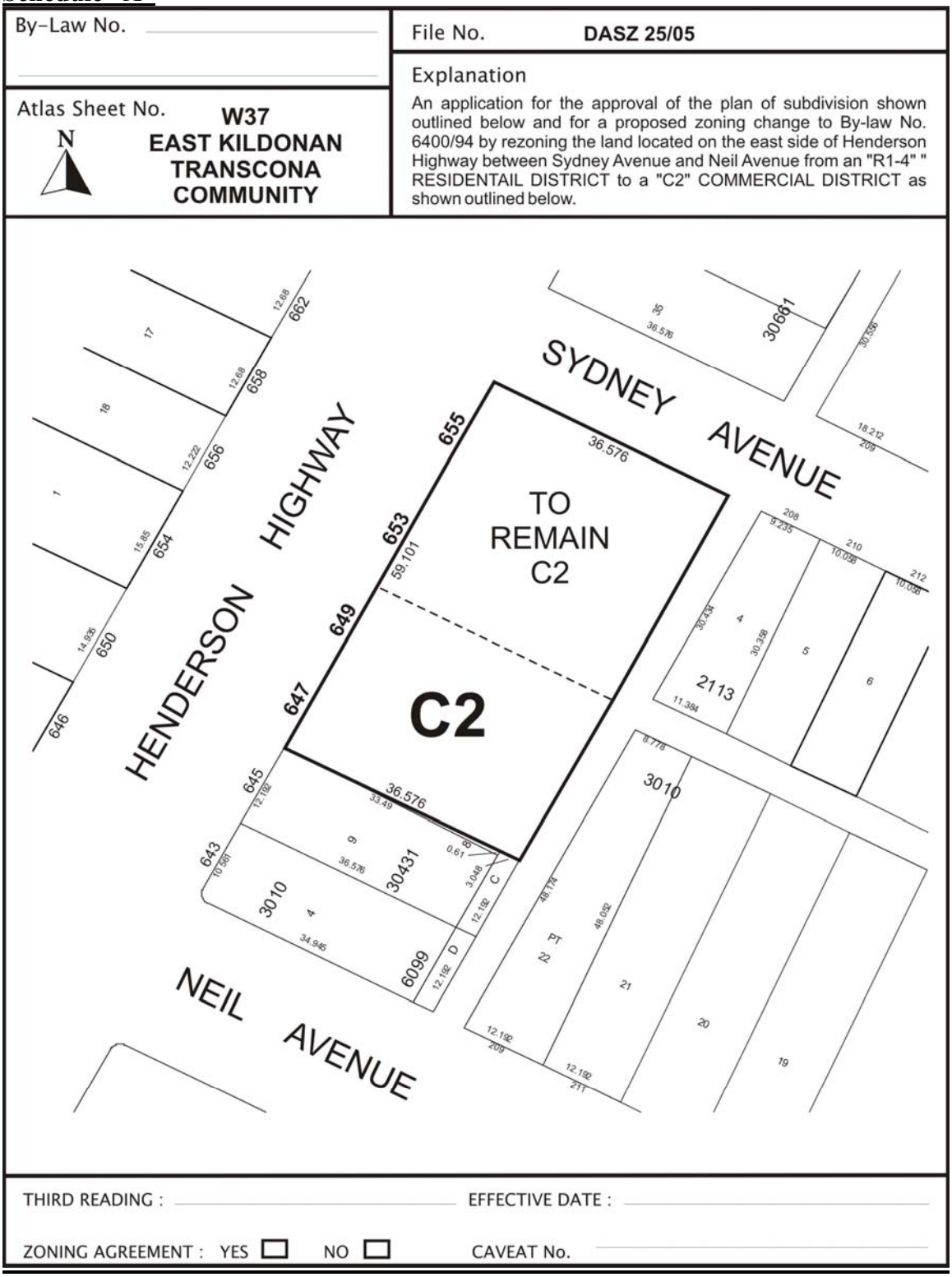

Figure 1: Schedule "A" to the report to the East Kildonan - Transcona Community Committee for File No. DASZ 25/2005, dated October 12, 2005.



Figure 2: Existing Land-Uses for subject property and Surrounding Area.

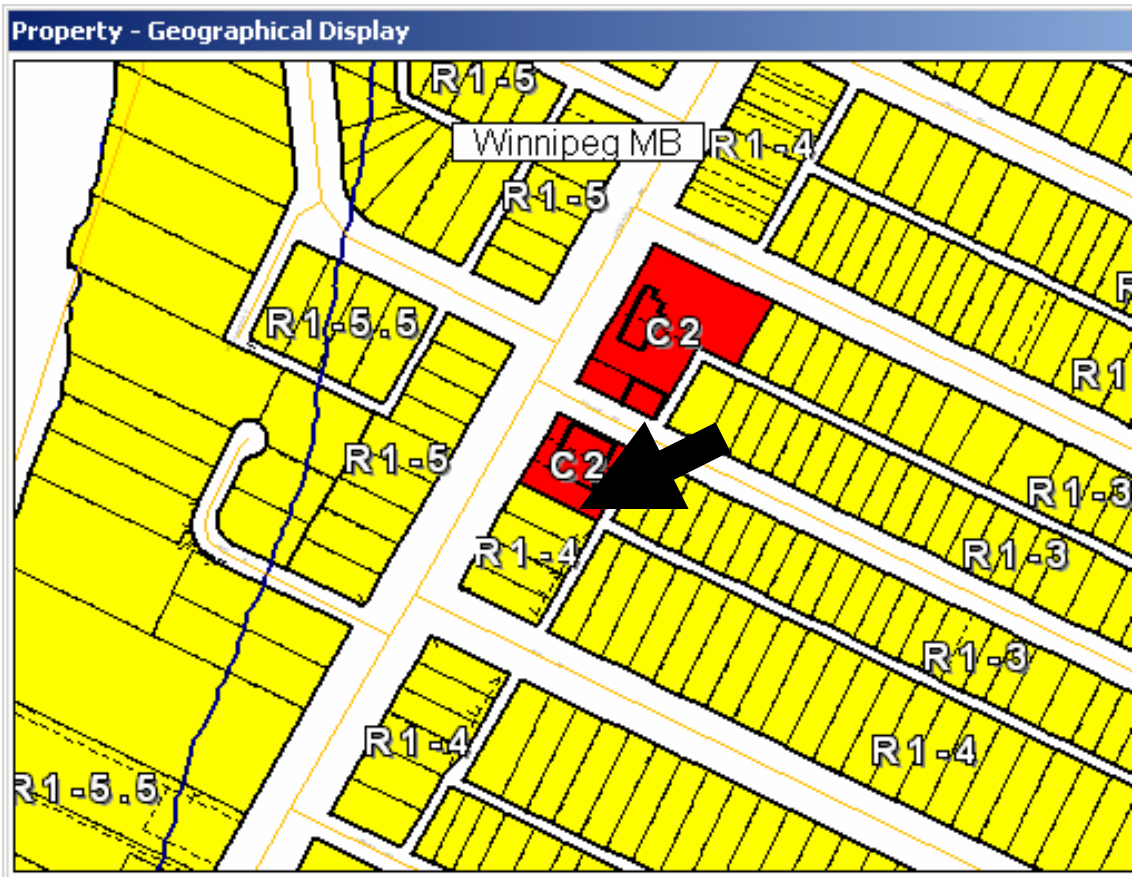

Figure 3: Existing Zoning for subject property and Surrounding Area.



Figure 4: Existing single family dwelling at 647 & 649 Henderson proposed for demolition.



Figure 5: Existing single family dwellings adjacent to proposed parking lot.