Agenda - Council - June 28, 2006

Report - Standing Policy Committee on Property and Development - June 6, 2006

Item No. 12 Rezoning - 592 Talbot Avenue
File DAZ 217/2006

STANDING COMMITTEE RECOMMENDATION:

On June 21, 2006, 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 Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land, as shown on Schedule "A" for File DAZ 217/2006 dated April 25, 2006, to a "C2" Commercial District subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter to provide for the following:

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

            a. automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts
            b. automobile, including motorcycle: supplies/parts, sales
            c. beer: sales
            d. bingo parlour
            e. bowling alley
            f. bus station
            g. contractors' establishment
            h exterminator
            i. farm supplies: sales
            j. fuel: sales kiosk
            k. hotel, including motel, limited to guest rooms
            l. liquor: sales
            m. machinery/heavy equipment supplies and parts: sales, installation, service
            n. mobile home park
            o. motors or machines, recreational or utility, including power toboggans, outboard motors, lawn mowers: rental, sale, service
            p. parking area, non-accessory
            q. pawnshop
            r. tattoo parlour

s. terminal for haulage, motor freight station, excluding an intermodal terminal
t. terminal for courier/delivery/ express service, cleaning service, key and lock service, security service, taxi, or similar service
u. tire: sales, service

ii. 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.

iii. That no illuminated signage be erected on the south or east sides of the building.

iv. That prior to the issuance of any occupancy 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 container, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development.

v. That the hours of operation for any business being conducted shall not fall within 7:00 p.m. and 7:00 a.m.

vi. That for the development of any building, accessory parking area 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, loading areas, fencing, landscaping and signage to the East Kildonan-Transcona Community Committee and the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permit; and the applicant shall maintain the landscaping and fencing to the satisfaction of the Director of Planning, Property and Development.

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.

Report - Standing Policy Committee on Property and Development - June 6, 2006

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 (3) readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, 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.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report - Standing Policy Committee on Property and Development - June 6, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 21, 2006, 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 June 6, 2006, 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 May 9, 2006, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 592 Talbot Avenue**
File DAZ 217/2006

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

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

Report date: **May 16, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 9, 2006, the East Kildonan-Transcona 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 6400/94 be amended by rezoning the subject land, as shown on Schedule "A" for File DAZ 217/2006 dated April 25, 2006, to a "C2" Commercial District, subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter, to provide for the following:

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            b. automobile, including motorcycle: supplies/parts, sales
            c. beer: sales
            d. bingo parlour
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            j. fuel: sales kiosk
            k. hotel, including motel, limited to guest rooms
            l. liquor: sales
            m. machinery/heavy equipment supplies and parts: sales, installation, service
            n. mobile home park
            o. motors or machines, recreational or utility, including power toboggans, outboard motors, lawn mowers: rental, sale, service

p. parking area, non-accessory
q. pawnshop
r. tattoo parlour
s. terminal for haulage, motor freight station, excluding an intermodal terminal
t. terminal for courier/delivery/ express service, cleaning service, key and lock service, security service, taxi, or similar service
u. tire: sales, service

ii. 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;

iii. That no illuminated signage be erected on the south or east sides of the building;

iv. That prior to the issuance of any occupancy 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 container, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development;

v. That the hours of operation for any business being conducted shall not fall within 7:00 p.m. and 7:00 a.m.

vi. That for the development of any building, accessory parking area 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, loading areas, fencing, landscaping and signage to the East Kildonan-Transcona Community Committee and the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permit; and the applicant shall maintain the landscaping and fencing to the satisfaction of the Director of Planning, Property and Development.

2. That a ten (10%) per cent 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 (3) readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, 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.

6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

The East Kildonan-Transcona Community Committee provided the following supporting reason for its recommendation:

1. The subject application to rezone the property to a “C2” Commercial District allows the applicant to operate his tool sharpening business as a permitted use on the subject property.

PUBLIC HEARING SUMMARY

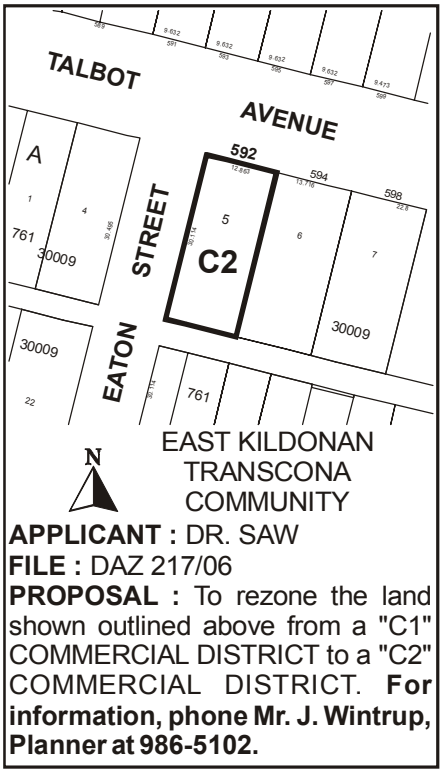
File: DAZ 217/2006

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

Public Hearing: May 9, 2006
Community Committee Chambers, 755 Henderson Highway

Applicant: Dr. Saw
(Normand Giroux)

Subject:



Premises Affected: 592 Talbot Avenue

Exhibits Filed:

1. Application dated April 10, 2006
2. Notification of Public Hearing dated April 12, 2006
3. Manitoba Status of Title 2110999
4. Surveyor's Building Location Certificate and sketch dated August 29, 2005
5. Drawings of subject property (2 pages)

6. Plan
7. AirPhoto
8. Report from the Planning and Land Use Division dated April 25, 2006
9. Inspection Report

REPRESENTATIONS:

In Support:

Normand Giroux, Dr. Saw

In Opposition

Nil

For the City:

John Wintrup, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Norman Giroux appeared in support of the application. He advised that he is proposing to use the front for his tool sharpening business and he will be residing in the back.

Exhibit "8" referred to in File DAZ 217/2006

Winnipeg

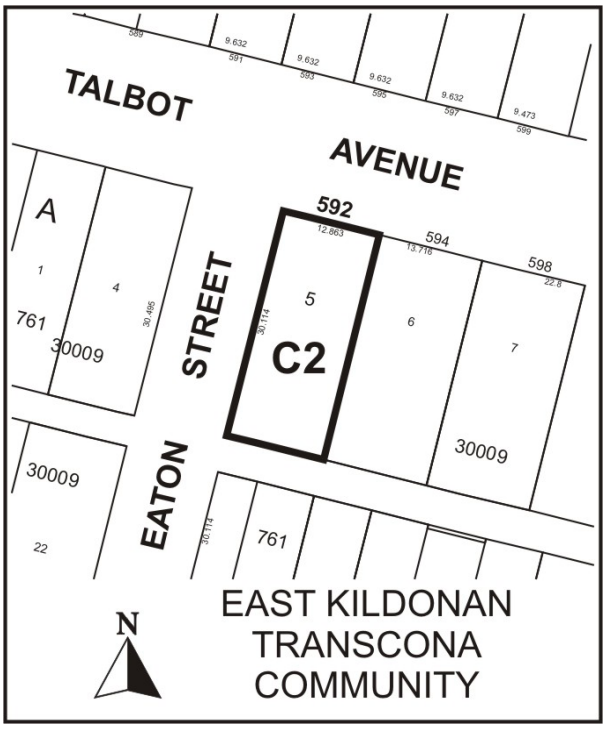
Planning, Property and Development Department Report

To the East Kildonan - Transcona Community Committee

Date: April 25, 2006
File: DAZ 217/06
Related Files: DAZ 228/00

Subject: Rezone the land to allow for a tool and knife sharpener.

Location: 592 Talbot Avenue
Legal Description: LOT 5 PLAN 30009 67/8 ST B



Applicant: Dr. Saw (Normand Giroux)
Owner: Dr. Saw (Normand Giroux)

Recommendation: **Approve**

Report Summary:

- Dr. Saw (Normand Giroux) is proposing to use one unit of the existing structure for his tool sharpening business, which is a conditional use in C1.5 and permitted in C2.
- Over the past 40 years, commercial uses at this location included a laundromat, florist, gift shop, clothing store and grocery store.
- The subject property is one of several commercial uses that are operating in residentially zoned areas in the neighbourhood, especially along the Grey Street and Talbot Avenue frontage.
- The small physical dimensions of the lot restricts the land-uses that can be accommodated on the subject property, precluding the commercial intensification of the land.

Site Description

The subject property is approximately **4,169 square feet (42 feet by 98.8 feet)** located on the southeast corner of Talbot Avenue and Eaton Street in the Talbot - Grey neighbourhood of the Elmwood - East Kildonan Ward. The site is zoned **"C1" Commercial District** and is occupied by a one storey, stucco building with two small commercial units fronting Talbot Avenue and a residence in the rear of the building. Adjacent lands include single family dwellings to the east zoned "R1-3". Surrounding uses include single family dwellings to the north and south zoned "R1" with a church to the west.

Background

DAZ 228/00 (B/L 7764/01, c/r DCU 225/00D & DAV 787/00D) rezoned the subject property from "R1-3' to "C1" to allow for a future commercial use.

DCU 225/00D (c/r DAZ 228/00 & DAV 787/00D) previously approved the maintenance of an existing dwelling unit in an existing commercial building.

DAV 787/00D (c/r DAZ 228/00 & DCU 225/00D) previously approved an existing commercial/residential building having an east side yard of 2.2 feet and no front yard.

DAV 61/86 previously approved a retail business (dog grooming) and a beauty parlour in an existing non-conforming commercial/residential building previously occupied as a grocery/ convenience store, gift shops, television and radio shop under DAV 476/82.

DAV 608/83 REJECTED the variance of Condition No. 1 of DAV 476/82 to allow a grocery/ convenience store to be open between 7 a.m. & 11 p.m.

DAV 476/82 previously approved the establishment of a grocery, gift shop, television and radio shop within a portion of an existing non-conforming commercial/residential building, subject to the following conditions:

1) That the grocery/convenience store shall not be open for business between the hours of 7 p.m. & 7 a.m.

2) That a wood bumper fence, 2.5 feet to 3 feet in height, be erected along the west limit of the land between the rear of the existing building and the public lane by September 30, 1983, in accordance with plans approved by the Director.

DAV 313/81 previously approved as follows:

1) the establishment of a clothing store in a portion of an existing non-conforming commercial/residential building;
2) the erection of a 12 sq ft non-illuminated fascia sign on the north wall of the building.

Subject to the condition that there be no increase in the existing signage on the building.

DAV 623/78 previously approved the establishment of a florist and gift shop use in a portion of an existing non-conforming commercial/residential building.

DAV 340/61 previously approved the conversion of a non-conforming commercial building to be used as an automatic self service laundry.

Description of the Proposed Development

Dr. Saw (Normand Giroux) is proposing to use one unit of the existing structure for his tool sharpening business. Dr. Saw sharpens garden tools, hair clippers, scissors, saw blades etc for residential and commercial clients. This use is considered under zoning by-law 6400 as a 'Hardware, Home Improvement, Supplies: Sales'. The hours of operation will be Monday to Friday, 8:00 am to 500 pm – 10 am to 2 pm on Saturdays. The second unit will be used by the existing pet grooming shop and the residence in the rear will be maintained.

Analysis

PLAN WINNIPEG

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

ZONING

- A **"C1" Commercial District** has 41 Permitted Uses and 20 Conditional Uses that provide for local commercial uses typically found in neighbourhoods. There is a front yard requirement of 20 feet and the maximum building height is 30 feet.
- A **"C1.5" Commercial District** has 63 permitted and 56 conditional uses intended to regulate commercial development with less of a neighbourhood orientation. There is no front yard requirement and the maximum building height is 45 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 and the maximum building height is 45 feet.

LAND USE BY-LAW ISSUES

There are only slight differences between "C1" and "C1.5" commercial zones. A "C1.5" zoning category generally allows a few additional uses as permitted and conditional, which are not permitted in "C1". The "C1" is the most restrictive commercial zoning category in limiting the number of uses whereas the "C2" is the more open. A "C1.5" falls between the two but is closer to "C1" than "C2".

A **"C1" Commercial District** is intended to provide for local commercial uses typically found within neighbourhoods. These land-uses tend to cater to the local residents, and are usually scattered throughout Winnipeg's older neighbourhoods. They serve the local residents down the street and not necessary a community or city wide market. A 'Hardware, Home Improvement, Supplies: Sales' is not permitted.

The **"C1.5" Commercial Districts** is intended to regulate commercial developments with less a neighbourhood orientation than "C1" . These land-uses target local residents and a neighbourhood wide market. They are scattered throughout Winnipeg's residential neighbourhoods. A 'Hardware, Home Improvement, Supplies: Sales' is a conditional use.

A **"C2" Commercial District** is intended to regulate more intensive commercial sites that do not have a local or neighbourhood orientation. These land-uses tend to cater to a community wide market. They serve the local residents down the street as well as the surrounding community but not necessary a city wide market. This zoning category is common throughout the City of Winnipeg. A 'Hardware, Home Improvement, Supplies: Sales' is a permitted use.

The Division considered recommending the C1.5 Commercial District to allow the proposed use as a 'conditional use'. However, the new zoning by-law that is nearing completion indicates that the C1.5 District will be collapsed into the C2 District, which in turn will be made more restrictive.

COMPATIBILITY WITH SURROUNDING USES

Over the past 40 years, commercial uses at this location included a laundromat, florist, gift shop, clothing store and grocery store. For the past 12 years a hair salon and a pet grooming shop have operated out of the commercial spaces. The hair salon vacated the premises in 2000 and the owner (at that time) applied to rezone the property from residential to C1 Commercial to ensure the commercial space could be used as such.

The subject property is one of several commercial uses that are operating in residentially zoned areas in the neighbourhood, especially along the Grey Street and Talbot Avenue frontage. These commercial properties have existed for decades and many were non-conforming uses when Zoning By-Law 16502 became effective in April, 1950. Prior to 1986, when the Zoning By-Law No. 4440/86 became effective, the property could establish different commercial uses in the residential zone by zoning variance. The City of Winnipeg Charter now classify these as 'temporary' use variances with a maximum 5-year period. A re-zoning provides a more in-depth analysis of the impact of a commercial property on the neighbourhood and provides certainty for property owners of the potential use of the property.

Other commercial sites along Talbot are either existing non-conforming uses or they have been re-zoned to accommodate a full range of neighbourhood commercial uses. For example, 522 Talbot (southwest corner of Talbot and Elmwood) was re-zoned to "C1" Commercial District (from "R2-T" Residential District) in 1999 so the existing commercial structure could be used for a commercial operation. Similarly, 663 Talbot (northeast corner of Grey and Talbot), another existing non-conforming commercial building, was rezoned from "R2" Residential District to "C1" Commercial District in 1980 as its non-conforming rights terminated.

Recommendation

The Planning and Land-Use Division supports the rezoning application. The zoning will reflect an existing on-ground condition of a commercial/residential building that has housed a variety of small scale commercial uses for the last +35 years. The small physical dimensions of the lot also restricts the type of uses that can be accommodated on the subject property, precluding the commercial intensification of the land.

The Division is further recommending that the type of uses permitted on the land should be restricted to ensure future commercial uses continue to be compatible with the surrounding residential dwellings. These uses are generally considered to be intensive commercial users with associated sounds, smells and/or visual impacts that would be detrimental to the adjacent residents.

Signage is a particular concern considering the close proximity of the residential dwellings directly to the south and east. It would not be appropriate to have signage on the east side of the building since it may cause a negative impact on the neighbours. Flashing signage and signs in excess of the allowable amount would also prove detrimental to the adjacent residents.

Recommended Conditions of Approval

1. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file **DAZ 217/06**, attached hereto and dated, **April 25, 2006**, to a "**C2" Commercial District**, subject to the following:

   A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter, to provide for the following:

      (i) That the following uses shall NOT be permitted on the land:

      a AUTOMOBILE, including motorcycle: RENTAL, SALES, including accessory REPAIR, SERVICE, INSTALLATION OF SUPPLIES/PARTS
      b AUTOMOBILE, including motorcycle: SUPPLIES/PARTS, SALES
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      d BINGO PARLOUR
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      f BUS STATION

g CONTRACTORS' ESTABLISHMENT
h EXTERMINATOR
i FARM SUPPLIES: SALES
j FUEL: SALES kiosk
k HOTEL, including MOTEL, limited to guest rooms
l LIQUOR: SALES
m MACHINERY/HEAVY EQUIPMENT SUPPLIES and PARTS:SALES, INSTALLATION, SERVICE
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o MOTORS or MACHINES, RECREATIONAL or UTILITY, including power toboggans, outboard motors, lawn mowers: RENTAL, SALE, SERVICE
p PARKING AREA, non-accessory
q PAWNSHOP
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(ii) 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;

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(v) The hours of operation for any business being conducted shall not fall within 7:00 pm and 7:00 am.

(vi) That for the development of any **building, accessory parking area 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, loading areas, fencing, landscaping and signage** to the East Kildonan – Transcona Community Committee and the Director of Planning, Property and Development. for plan approval prior to the issuance of any building or development permit; and the applicant shall maintain the landscaping and fencing to the satisfaction of the Director of Planning, Property and Development.

2. That a ten (10) per cent 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.

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6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

7. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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

Report Prepared by: John S. Wintrup
PPD File # DAZ 217/06

Schedule "A"

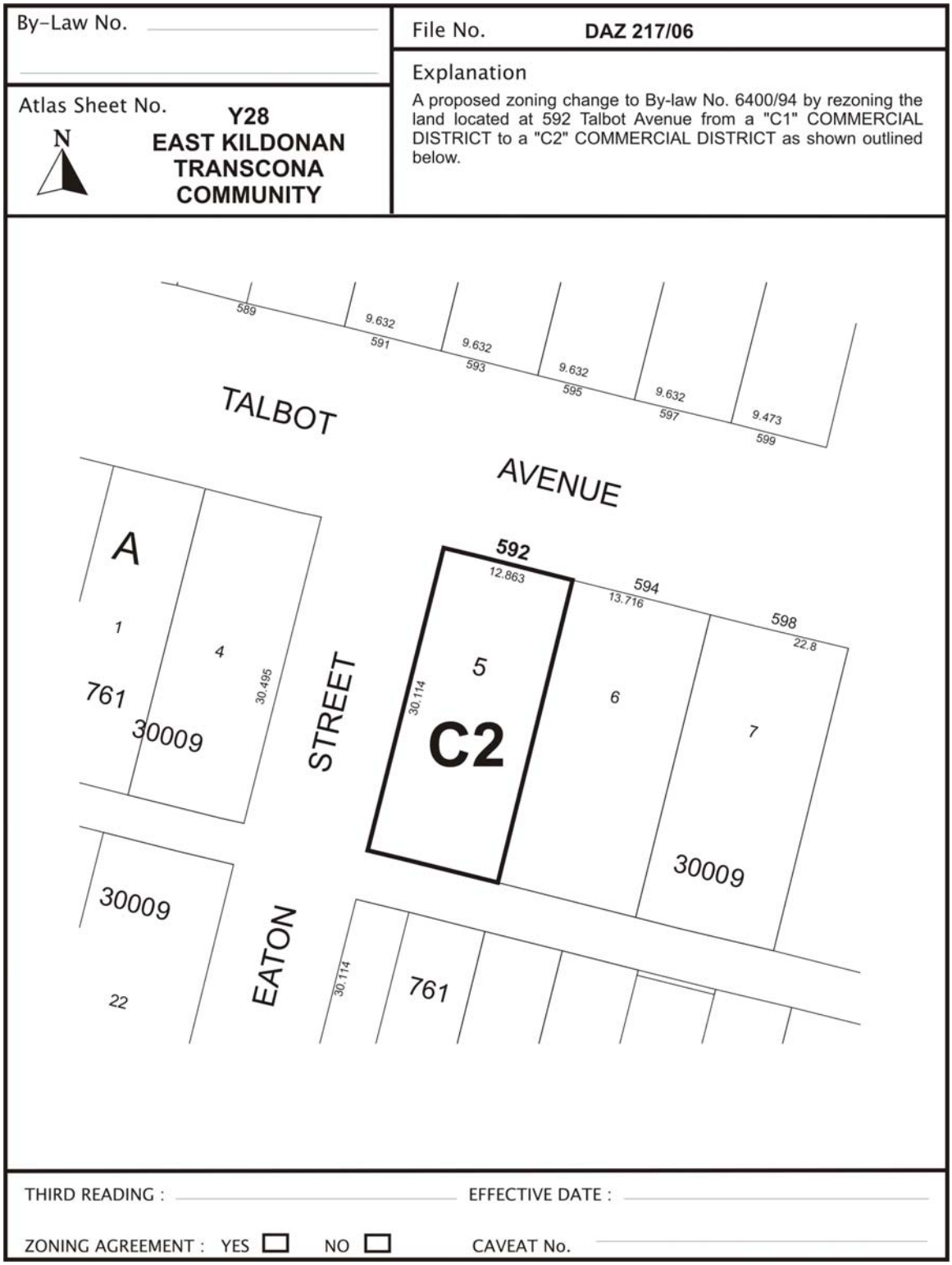

Figure 1: Schedule "A" to the report to the East Kildonan -Transcona Community Committee for File No. DAZ 217/06, dated April 25, 2006.

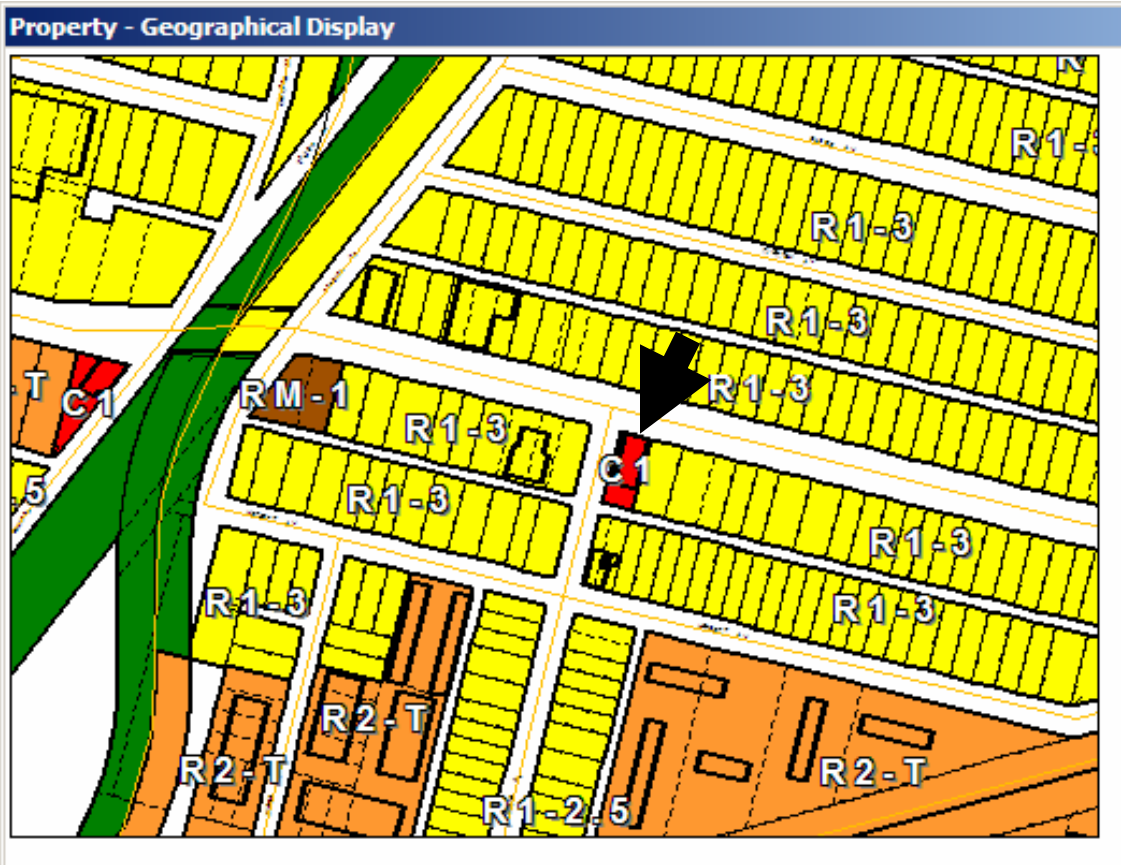

Figure 2: Existing Zoning for subject property and Surrounding Area.

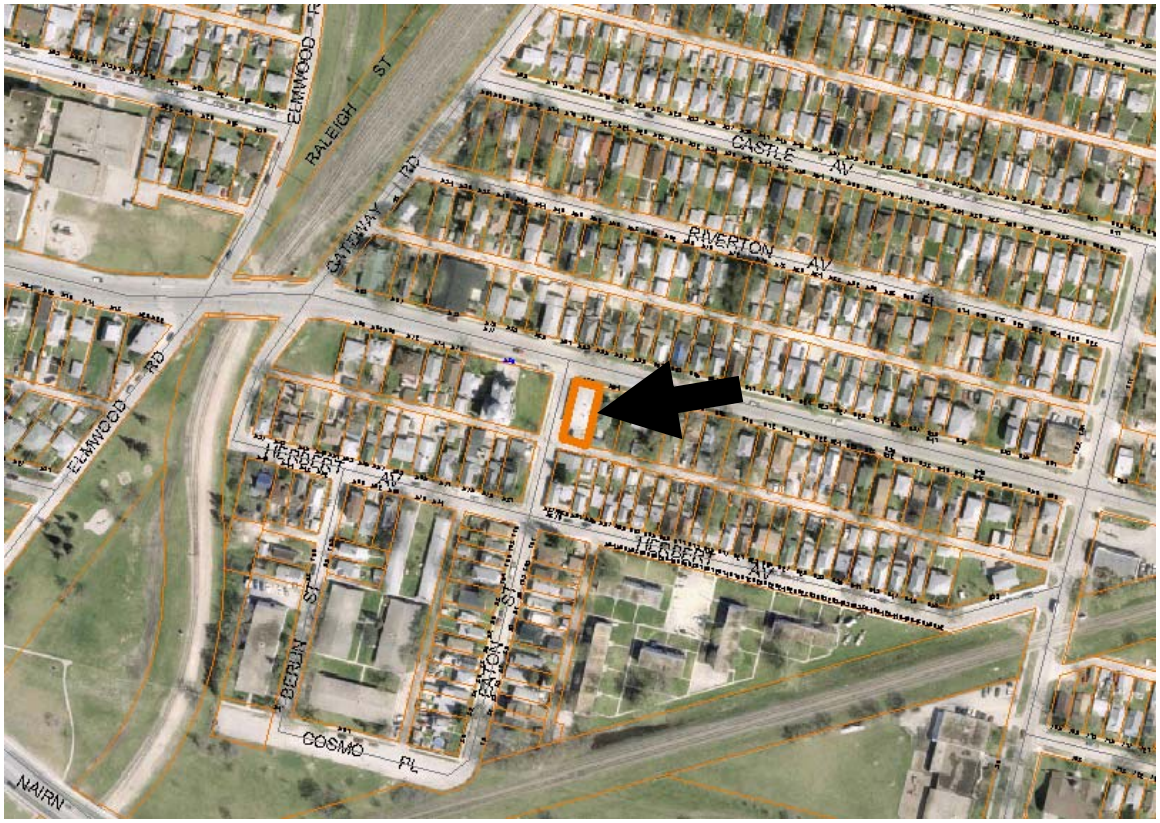

Figure 3: Existing Land-Uses for subject property and Surrounding Area.