Agenda – Council - July 26, 2006

Report - Standing Policy Committee on Property and Development – July 4, 2006

Item No. 16 Subdivision and Rezoning - 2654/2660 Pembina Highway
File DASZ 26/2006

STANDING COMMITTEE RECOMMENDATION:

On July 19, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee, as amended, and submits the following to Council:

1. That the plan of subdivision proposed under File DASZ 26/2006 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 26/2006 dated June 7, 2006, for registration in the Winnipeg Land Titles Office.

2. That Caveat Nos. 239879, 84-107525 and 2956828 be fully discharged.

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

4. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 26/2006 dated June 7, 2006, to a **"**C2" Commercial District subject to the applicant entering into a new Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

   A. That prior to new construction on the site, detailed site plans illustrating the location of new buildings or new additions, building profiles, parking areas, approaches, landscaping, garbage enclosures, signage and fencing be submitted to and approved by the Director of Planning, Property and Development, in consultation with the area Councillor, prior to the issuance of any building permits.

   B. That there shall be no advertising signs, mobile signs, poster signs, balloon signs, buntings and A-frame signs on the entire site, except that a mobile sign shall be permitted on site for a period of thirty (30) days in association with an official opening event.

Report - Standing Policy Committee on Property and Development – July 4, 2006

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 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 the market value of the land.

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

8. That the subdivision 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.

9. 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.

10. 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.

11. That 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.

12. 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 – July 4, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 19, 2006, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee, as amended, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 4, 2006, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee with the following amendment, namely:

- That Recommendation No. 9 be amended by adding the words "and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles office against those lands" after the word Office in the second line thereof,

and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 26, 2006, the Riel Community Committee concurred in the administrative recommendation with the following amendments, namely:

- That the words "and the Riel Community Committee" in the second last line of Recommendation 4. A. be deleted and replaced with the words "in consultation with the area Councillor",

and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning - 2654/2660 Pembina Highway**
File DASZ 26/2006 [c/r DAV 109038/2006D]

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

Prepared by: **Marc Pittet, Clerk,**
Riel Community Committee

Report date: **June 27, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 26, 2006, the Riel Community Committee concurred in the administrative recommendation, as amended, and recommends to the Standing Policy Committee on Property and Development:

The Riel Community Committee concurred in the administrative recommendation, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 26/2006 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 26/2006 dated June 7, 2006, for registration in the Winnipeg Land Titles Office.

2. That a full discharge of caveats #239879, #84-107525 and #2956828 is required.

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

4. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 26/2006 dated June 7, 2006, to a **"**C2" Commercial District, subject to the applicant entering into a new Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter, to include the following conditions:

    A. That prior to new construction on the site, detailed site plans illustrating the location of new buildings or new additions, building profiles, parking areas, approaches, landscaping, garbage enclosures, signage and fencing be submitted to and approved by the Director of Planning, Property and Development ~~and the Riel Community Committee~~, ***in consultation with the area Councillor***, prior to the issuance of any building permits.

    B. That there shall be no advertising signs, mobile signs, poster signs, balloon signs, buntings and A-frame signs on the entire site, except that a mobile sign shall be

permitted on site for a period of thirty (30) days in association with an official opening event.

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 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 the market value of the land.

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

8. That the subdivision 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.

9. 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 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.

10. 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.

11. That 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.

12. 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.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

The Riel Community Committee provided the following supporting reason for its recommendation:

1. The Riel Community Committee agreed with the administrative comments contained in the report from the Planning and Land Use Division dated June 7, 2006.

PUBLIC HEARING SUMMARY

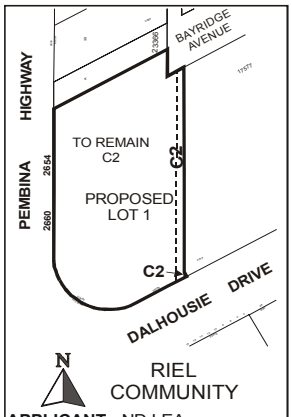
File: DASZ 26/2006 [c/r DAV 109038/2006D]

Before: Riel Community Committee
Councillor Magnifico, Chairperson
Councillor Steeves
Councillor Swandel

Public Hearing: June 26, 2006
Council Building, 510 Main Street

Applicant: ND LEA Engineers and Planners Inc. (Veronica Hicks)

Subject:



APPLICANT : ND LEA ENGINEERS AND PLANNERS
FILE: DASZ 26/06
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 "RM-2" MULTIPLE-FAMILY DISTRICT to a "C2" COMMERCIAL DISTRICT, and to withdraw the existing zoning agreement. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : ND LEA ENGINEERS AND PLANNERS
N° DE RÉFÉRENCE : DALZ 26/06
PROJET : Demande d'approbation par le Conseil du plan de lotissement relatif aux sols délinéés ci-dessus et proposition de modification du *Règlement municipal n° 6400/94* visant à changer le zonage des sols délinéés ci-dessus qui passeraient de la catégorie RM-2 (SECTEUR D'HABITATIONS MULTIFAMILIALES) à la catégorie C2 (SECTEUR COMMERCIAL) et à abroger la convention de zonage existante. **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 2654/2660 Pembina Highway

Exhibits Filed:

1. Application dated May 31, 2006
2. Notification of Public Hearing dated June 1, 2006
3. Manitoba Status of Title 2155626
4. Letter of authorization dated May 3, 2006 from Carlos Gomes to Heather Sarna and Associates, Inc. and ND Lea Engineering
5. Caveat No. 84-107525 dated November 19, 1984
6. Caveat No. 2956828 dated March 3, 2004
7. Amendment to Zoning Agreement No. DAZ 238/84 dated January 28, 2004
8. Site Plan dated May 16, 2006
9. Site Plan dated May 31, 2006
10. Report from the Planning and Land Use Division dated June 7, 2006
11. Inspection Report
12. Site Plan submitted by Veronica Hicks at the Public Hearing

REPRESENTATIONS:

In Support:

Carlos Gomes
James Hargreaves
Veronica Hicks, ND LEA Engineers and Planners Inc.
Maria Grajewska
Roger Petorsson
Heather Sama
Misty Sklar

In Opposition

Nil

For the City:

Mr. K. Lalor, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Veronica Hicks, appeared in support of the application.

Exhibit "10" referred to in File DASZ 26/2006 [c/r DAV 109038/2006D]

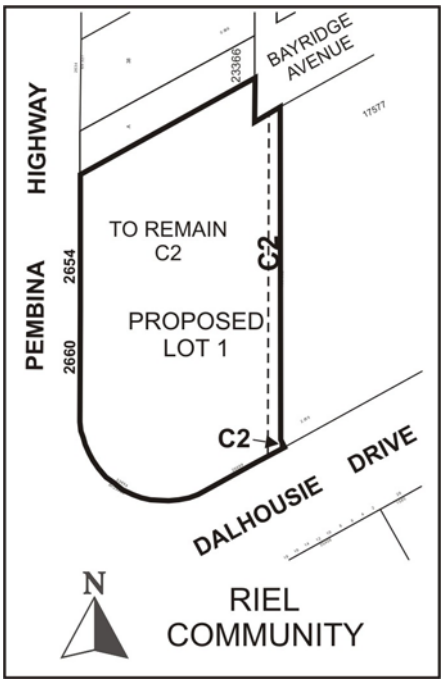
Winnipeg

Planning, Property and Development Department Report

To the Riel Community Committee

Date: **June 7, 2006**
File: **DASZ 26/06**
Related Files: **DAV 06-109038/D**
Subject: **Rezone Parcel A and Parcel B from RM-2 to C2.**

Location: **2654/2660 Pembina Highway**



Applicant: **Veronica Hicks, N.D. Lea Engineers and Planners**
Owner: **Shoppers Realty Inc.**

Recommendation: ***Approve, with conditions***

Report Summary:

- The applicant is proposing to consolidate the subject properties into one lot and rezone the easterly half of Plan 19029 from "RM-2" Residential District to "C2" Commercial District.
- The applicant is also applying for a use variance (DAV 06-109038/D) to permit a drug store in the "RM-2" District along with yard variances for accessory parking and signage location.
- The Planning and Land Use Division is recommending approval of this application, with conditions.

Site Description

The subject properties, currently zoned commercial and multiple-family residential, are approximately 1.57 acres located at the corner of Pembina Highway and Dalhousie Drive, in the Fort Richmond neighbourhood of the St. Norbert Ward. The site is zoned "RM-2" Residential District (Plan 19029) and "C2" Commercial District. Adjacent properties include a church use to the east, zoned "RM-2" and commercial uses to the north, south and west across Pembina Highway, all zoned "C2" Commercial District.

Background

DAC 37/84

In August 1984 the land closing for the North/South lane east of and parallel to Pembina Highway between Dalhousie Drive and Bayridge Avenue was approved.

ZAA 14/2003

In November 2003 a Zoning Agreement Amendment was approved to delete Clause No. 2 of the Zoning Agreement to DAZ 238/84, which stated:

"No building, structure or land shall be used and no building shall be erected, altered or enlarged on the land for any use except: 1) automobile sales area and showroom, open or enclosed & incidental pre-servicing & warranty repairs for automobiles sold on the premises; 2) signs as accessory to the use in (1) above and 3) accessory uses."

DAV 14-11004/C

In March 2004 a variance (DAV 14-11004/C) was granted to vary to the special yard requirements for the construction of a commercial building to permit a rear yard of 15 feet instead of 25 feet and for the development of an accessory parking area to permit no front yard instead of 40 feet. This variance was not established and expired March 16, 2006.

Description of the Proposed Development

The applicant is proposing to establish a drug store use on the subject site. The existing buildings will be demolished and a new retail store will be constructed on the site. Variances are required for the special front yard to permit accessory parking in the required front yard and the rear yard. The original variance application also included a variance for signage in the required front yard, however, the applicant has modified this part of the project and that variance is no longer required (DAV 06-109038/D).

Analysis

PLAN WINNIPEG
The proposed concept complies with Plan Winnipeg in that a commercial rezoning is allowed in Neighbourhood Policy Areas and the use complies with the intent of the policy area.

ZONING
The majority of the site is currently "C2" Commercial District. Rezoning and consolidating the easterly half of Plan 19029 with the remainder of the subject site poses no adverse effect on the adjacent properties. In addition, all other properties along this portion of Pembina Highway are currently "C2", so the proposed zoning is compatible with the adjacent area.

TRANSPORTATION AND SITE ACCESS
There are currently three approaches to the site. The applicant is proposing to close the southern approach to the site from Pembina Highway and modify the northern approach, also on Pembina. The approach from Dalhousie Drive will be modified slightly and maintained.

SITE PLAN
The applicant submitted a site plan showing the proposed retail store, parking, approaches and landscaping. The site plan indicates variances that will be required including a rear yard variance, front yard variance for an accessory parking area. An increased level of landscaping, including fencing, will be provided along the front yard. Original site plans included a front yard variance for signage (DAV 06-109038D). Following discussions with the applicant, the freestanding sign has been moved and no longer requires a variance.

COMPATIBILITY WITH SURROUNDING USES
The majority of the proposed site is already zoned commercial but is currently vacant. The proposed drug store use is supported by the Neighbourhood Policy area designation and is permitted in the "C2" Commercial District. Therefore, the change of use variance is only required for the easterly portion of Parcel A portion of the subject site until the "RM-2" land is rezoned to "C2".

The proposed use and rezoning is compatible with the surrounding area and appears to pose no adverse effects on the adjacent properties.

Recommendation

The Planning and Land-Use Division supports rezoning the subject site for the following reasons:

- The rezoning and proposed use will not have a substantial adverse impact on adjacent properties;
- The proposed use is compatible with the surrounding neighbourhood;
- The proposed rezoning is consistent with Plan Winnipeg and its policies.

Recommended Conditions of Approval

I. That the plan of subdivision proposed under File No. **DASZ 26/06** be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. **DASZ 26/06,** attached hereto and dated **June 7, 2006**, for registration in the Winnipeg Land Titles Office.

II. That a full discharge of caveat #239879, #84-107525 and #2956828 is required.

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

IV. 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 26/06** attached hereto and dated **June 7, 2006**, to a **"C2" Commercial District**, subject to the applicant entering into a new Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter, to include the following conditions:

A. That prior to new construction on the site, detailed site plans illustrating the location of new buildings or new additions, building profiles, parking areas, approaches, landscaping, garbage enclosures, signage and fencing be submitted to and approved by the Director of Planning, Property and Development and the Riel Community Committee prior to the issuance of any building permits.

B. That there shall be no advertising signs, mobile signs, poster signs, balloon signs, buntings and A-frame signs on the entire site, except that a mobile sign shall be permitted on site for a period of thirty (30) days in association with an official opening event.

V. 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.

VI. 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.

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

VIII. That the subdivision 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.

IX. 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 **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**.

X. 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.

XI. 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.

XII. 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: Angie Clark
PPD File # DASZ 26/06

Schedule "A"

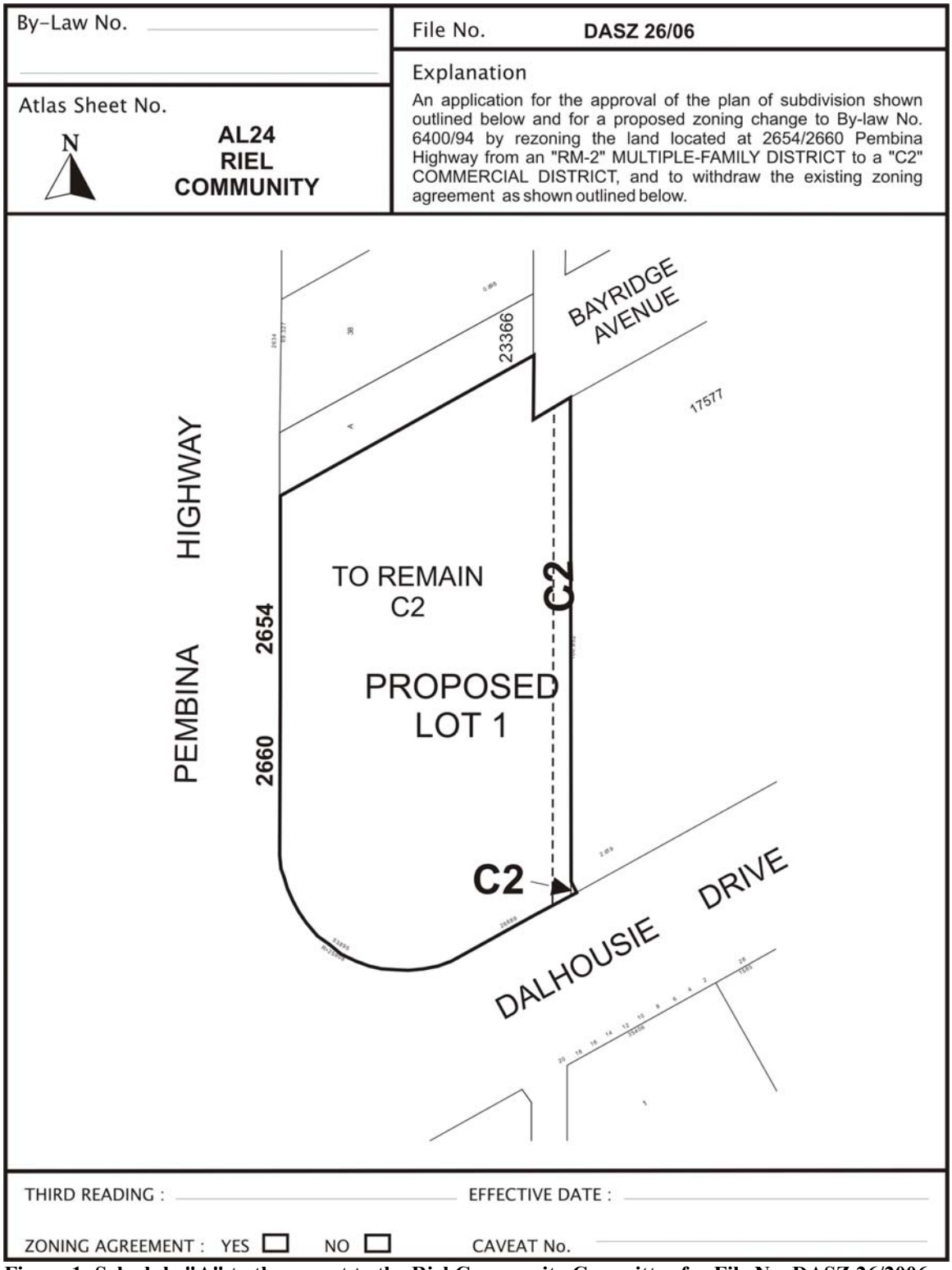


Figure 1: Schedule "A" to the report to the Riel Community Committee for File No. DASZ 26/2006, dated June 7, 2006.



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



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