Agenda – Council - July 26, 2006

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

Item No. 17 Zoning Agreement Amendment - 850 Regent Avenue West File ZAA 5/2006 [c/r DASZ 20/93]

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 East Kildonan-Transcona Community Committee and submits the following to Council:

1. That the Zoning Agreement under File DASZ 20/93 dated December 17, 1993, be amended as follows:

    A. That Clause 2. be deleted and substituted with the following:

        i. That no building located on Lot 2 shall exceed a height of 30 feet (9.14 metres) and Lot 2 shall have a front yard of 25.0 feet (7.62 metres) abutting Regent Avenue and a front yard of 10 feet (3.048 metres) abutting Pandora Avenue.

        ii. That free standing identification or business signs be prohibited along the Pandora Avenue frontage.

        iii. That temporary or special event signs be prohibited on the site, including mobile signs, balloon signs, posters, sandwich boards, banners, bunting streamers or similar attention-getting devices, except for thirty (30) days following the issuance of an occupancy permit.

        iv. That identification or business signage on the west, east and south sides of the building be prohibited.

        v. That 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.

        vi. That vehicular access to the site shall be prohibited from Pandora Avenue.

        vii. That there be no loading or unloading at any building entrances on the east or south sides of the building located within 25 feet (7.62 metres) of Pandora Avenue.

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

viii. That a pedestrian walkway be implemented on the property.

ix. That all lighting used to illuminate any building, parking or storage area shall be arranged and shielded so that it does not reflect onto adjacent streets and properties, in particular residential properties.

x. That all lighting shall, upon the request of the Director of Planning, Property and Development, be equipped with whatever additional shielding, lenses, or cut-off devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptual to persons on any street or abutting lot or parcel. In addition, the Director may require that the light trespass and glare be limited to a reasonable level through fixture location, height and intensity.

xi. 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 pedestrian walkway, 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 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 the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 20/93 dated December 17, 1993, as approved in aforesaid Clause 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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 East Kildonan-Transcona Community Committee 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 East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 13, 2006, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation with the following amendments, namely:

- That Recommendation No. 1.A.viii. be amended by deleting the following words at the end thereof "along the east property line from Regent Avenue to the front portion of the building located within 25 feet (7.62 metres) of Pandora Avenue" and substituting therefore the words "on the property".

- That Recommendation No. 1.A.xi. be amended by adding the words "the pedestrian walkway" in the third line thereof after the words "plans shall be submitted showing the location and design of the proposed buildings" and before the words "the location and design of accessory parking areas",

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

RE: **Zoning Agreement Amendment - 850 Regent Avenue West**
File ZAA 5/2006

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

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

Report date: **June 20, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 13, 2006, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That the Zoning Agreement under File DASZ 20/93 dated December 17, 1993, be amended as follows:

    A. That Clause 2. be deleted and substituted with the following:

        i. That no building located on Lot 2 shall exceed a height of 30 feet (9.14 - metres) and Lot 2 shall have a front yard of 25.0 feet (7.62 metres) abutting Regent Avenue and a front yard of 10 feet (3.048 metres) abutting Pandora Avenue;

        ii. That free standing identification or business signs be prohibited along the Pandora Avenue frontage;

        iii. That temporary or special event signs be prohibited on the site, including mobile signs, balloon signs, posters, sandwich boards, banners, bunting streamers or similar attention-getting devices, except for thirty (30) days following the issuance of an occupancy permit;

        iv. That identification or business signage on the west, east and south sides of the building be prohibited;

        v. That 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;

        vi. That vehicular access to the site shall be prohibited from Pandora Avenue;

vii. That there be no loading or unloading at any building entrances on the east or south sides of the building located within 25 feet (7.62 metres) of Pandora Avenue;

viii. That a pedestrian walkway be implemented ***on the property*** ~~***along the east property line from Regent Avenue to the front portion of the building located within 25 feet (7.62 metres) of Pandora Avenue;***~~

ix. That all lighting used to illuminate any building, parking or storage area shall be arranged and shielded so that it does not reflect onto adjacent streets and properties, in particular residential properties;

x. That all lighting shall, upon the request of the Director of Planning, Property and Development, be equipped with whatever additional shielding, lenses, or cut-off devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptual to persons on any street or abutting lot or parcel. In addition, the Director may require that the light trespass and glare be limited to a reasonable level through fixture location, height and intensity;

xi. 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 pedestrian walkway***, 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 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 the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DASZ 20/93 dated December 17, 1993, as approved in aforesaid Clause 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

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

1. There is good access to Regent Avenue West.

2. There is commercial development on either side and across the street from the subject property.

PUBLIC HEARING SUMMARY

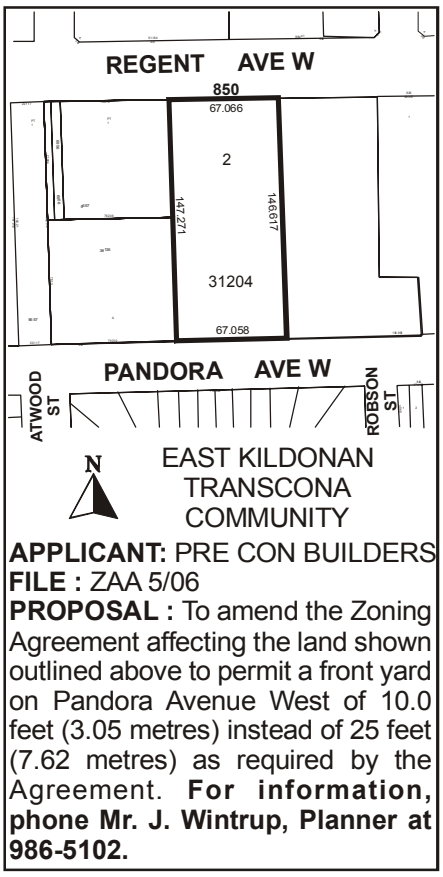
File: ZAA 5/2006

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

Public Hearing: June 13, 2006
Community Committee Chambers, 755 Henderson Highway

Applicant: Pre-Con Builders
(Rob Lee)

Subject:



APPLICANT: PRE CON BUILDERS
FILE : ZAA 5/06
PROPOSAL : To amend the Zoning Agreement affecting the land shown outlined above to permit a front yard on Pandora Avenue West of 10.0 feet (3.05 metres) instead of 25 feet (7.62 metres) as required by the Agreement. **For information, phone Mr. J. Wintrup, Planner at 986-5102.**

Premises Affected: 850 Regent Avenue West

Exhibits Filed:
1. Application dated May 2, 2006
2. Notification of Public Hearing dated May 9, 2006
3. Manitoba Status of Title 1778084

4. Letter of authorization dated March 1, 2006, from CanadInns to Pre-Con Builders
5. Zoning Agreement DASZ 20/93 and Caveat 1816243
6a. Variance Order DAV 311/92C
6b. Variance Order DAV 535/93C
7. Site and Elevation Plans (2 pages)
8. Report from the Planning and Land Use Division dated June 1, 2006
9. Inspection Report
10. Site and Elevation Plans (5 pages) submitted by Bryon Temoshawsky at the public hearing

REPRESENTATIONS:

In Support:

Ron Bell
Jeff Hawrycuk
Bryon Temoshawsky

In Opposition

Nil

For the City:

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

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Bryon Temoshawsky appeared in support of the application, and submitted Site and Elevation Plans, filed as Exhibit 10.

Jeff Hawrycuk appeared in support of the application, and questioned administrative recommendation No. 1.A.viii., pertaining to implementing a pedestrian walkway along the east property line.

Councillor Wyatt questioned the intent of the walkway to which John Wintrup, Planner, responded by advising that the implementation of a walkway is an effort to address the concern of people crossing the parking lot to access the proposed site.

Jeff Hawrycuk expressed concern relative to the elimination of parking stalls on the lot as a result of the implementation of a walkway.

Ron Bell appeared in support of the application.

Bryon Temoshawsky suggested that the location of the pedestrian walkway be flexible inasmuch as trees already exist along the east property line.

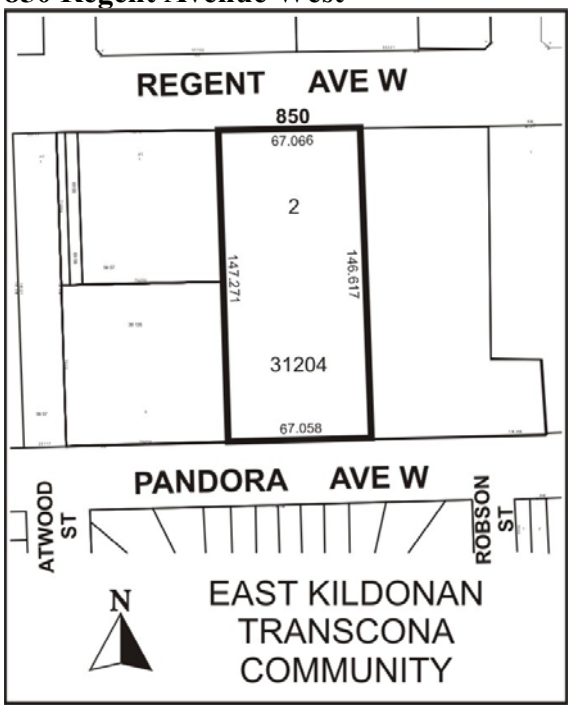
Exhibit "8" referred to in File ZAA 5/2006

Planning, Property and Development Department Report

To the East Kildonan - Transcona Community Committee

Date: **June 01, 2006**
File: **ZAA 05/06**
Related Files: **DASZ 20/1993**
Subject: **Amend zoning agreement to reduce the yard setback from Pandora Avenue.**

Location: **850 Regent Avenue West**



Applicant: **Pre-Con Builders (Rob Lee)**
Owner: **Canad Corporation of Manitoba Ltd.**

Recommendation: **Approval**

Report Summary:

- The applicant is proposing to develop a **18,500 square foot** commercial retail building backing onto Pandora Avenue.
- The applicant would like to reduce the required Pandora Avenue yard setback.
- **DAV 311/92C** and **DAV 535/93C** for the Golden Oak Inn at 850 Regent Avenue established a landscaped area of 10 feet along Pandora.
- The Division is prepared to support the reduction of the yard if the level of landscaping previously provided along Pandora Ave at the hotel is established.

Site Description

The subject property is located on the south side of Regent and north side of Pandora Avenue, west of Plessis Rd in the Regent neighbourhood of the Transcona ward. The site is zoned "C2" Commercial and is occupied by a 6,560 square foot Blockbuster Video Store on a lot that is **220 feet** wide and **483 feet** deep. Adjacent properties include Canad Inns Hotel to the east zoned "C3-1"; vacant "C2" commercial lands along Regent and a Hydro Substation along Pandora Avenue to the west. Surrounding properties include vacant lands to the south and residential dwellings to the south east.

Background

DASZ 20/1993

The subject property was subdivided from the adjacent commercial lands to the east in 1993. The property was rezoned "C2" commercial from "C3-1" in order to permit the establishment of a Blockbuster Video Store, which was not permitted in "C3-1". This rezoning also allowed a greater range of commercial uses, which the Division felt was compatible with the use and character of Regent Avenue in this general vicinity. However, the Division felt that the developments under the "C2" zoning should be consistent with the established standards under the "C3-1" zoning that exists on much of Regent Avenue. Height and density restrictions, and front yards of 25 feet along Regent and Pandora were established. The 25 foot yard setback was the required front/rear yards for the "C3-1" Commercial zone under Zoning By-law 4440/86.

Variances granted in the last 15 years have affected the Pandora Avenue frontage.

Golden Oak Inn: **826 Regent Avenue** (**DAV 311/92C and DAV 53/93C**)

- established a landscaped area of **10 feet** with landscaped berms for the rear yard along Pandora to screen this development against the immediate residential neighbourhood to the south.

Keystone Ford: 1055 Pandora Avenue (DAV 617/96C)

- a **2-6 foot** high landscape berm in a **10 foot yard** adjacent to Pandora is required.

Vicker Mitsubishi: 950 Regent (DAV 243/03C)

- Variance Order granted for a **25 foot** rear yard (Pandora Avenue West) with fencing and landscaping subject to site plan approval.

Frontier Toyota: 1251 Pandora AVE W (DAV 05-162382/C)

- Variance request for no front yard (Pandora Ave) instead of 25 feet (7.62 metres).
- Variance denied at the Board of Adjustment and a **25 foot front** yard required.

Description of the Proposed Development

The applicant is proposing to develop a **18,500 square foot** commercial building backing onto Pandora Avenue. An additional **102 parking stalls** will be constructed behind the existing Blockbuster Video Store. The new building will be located **453.8 feet** back from Regent Avenue and **10 feet** from Pandora Avenue. The loading dock will be located on the east side of the building. There will be no direct access from the lot, though a cross access with the adjacent property to the east will be provided, which has direct access to Pandora Avenue.

Analysis

ZONING

- 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 a rear yard requirement of 25 feet.
- A **"C3-1" Commercial District** has 56 Permitted Uses and 61 Conditional Uses that are intended to provide for highway commercial type developments, with a significant orientation to automobile and truck-related uses. There is a front and rear yard requirement of 25 feet.

LAND USE BY-LAW ISSUES

- The developer has the right to develop the proposed commercial use with a yard setback of 25 feet against Pandora Avenue.
- The subject lot is considered a 'through' lot with frontage on Regent and Pandora Ave.

COMPATIBILITY WITH SURROUNDING USES

Pandora Avenue is a residential collector street that primary serves the residents of Mission Gardens. The future of Pandora is no longer a major traffic corridor. Pandora terminates in a cul-de-sac and does not connect to Regent Avenue. Residential dwellings front the south side of Pandora Avenue to the east and west of the subject site. New houses have been recently constructed at 1220 Pandora Avenue West (DASZ 11/02). The future of the vacant lands between Atwood and Robson Street on Pandora Avenue West will most likely be residential housing since a previous application by a major builder for these lands was for single family residential homes (DASZ 22/02).

SITE DESIGN ISSUES

The characteristics of substandard yards along Pandora Avenue West between Owen and Plessis has been established with landscaping that includes berms. **DAV 311/92C** and **DAV 535/93C** for the hotel at 826 Regent Avenue established a landscaped area of 10 feet for the rear yard along Pandora to screen their parking area. (Figure 3).

Recommendation

For the reduction of the front yard adjacent to Pandora Avenue, the applicant requires the following clause, which establishes the separation distance as 25 feet from the right-of-way, be ***deleted*** from the Zoning Agreement:

2. *That no building located on Lot 2 shall exceed a height of 30 feet (9.14 metres) and Lot 2 shall have front yards of 25.0 feet (7.62 metres) abutting Regent Avenue and Pandora Avenue.*

The Division is prepared to support the reduction of the front yard if the level of landscaping previously provided along Pandora Avenue at the adjacent hotel property is established. The berm and landscaping should effectively screen the commercial development from Pandora Avenue. A number of other standards need to be implemented to offset the reduced rear yard to ensure the commercial development remains compatible with the adjacent residential neighbourhood.

The Department recommends the following conditions to mitigate any negative impacts of this commercial development due to the reduced front yard along Pandora:

- *site plan approval for landscaping, fencing, buildings, and signage;*
- *free standing signage restricted along Pandora;*
- *access to Pandora Avenue restricted;*
- *no mobile signs, flashing and scintillating signs;*
- *signage be restricted on the east, west, south sides of the building;*
- *loading areas be restricted to the west and north sides;*
- *building and parking area lighting be shielded.*
- *fencing required against the adjacent commercial property not part of this application (Canad Inns).*
- *A pedestrian walkway from Regent Avenue be implemented.*

- Signage should be restricted from the south, west and east sides of buildings that back onto the adjacent residents in order to prevent a nuisance for the neighbours.

- The loading area should be located on the west side of the building, against the Manitoba Hydro Sub-station, in order to mitigate the loading docks negative impacts (sight, sounds) from the residents.

- A pedestrian walkway from Regent along the east property line will facilitate the pedestrian traffic to access the commercial development.

Recommended Conditions of Approval

1. That the Zoning Agreement under file no. **DASZ 20/93**, dated, **December 17, 1993**,

   A. be amended as follows:

      1. That Clause 2. be deleted and substituted with the following:

         a. That no building located on Lot 2 shall exceed a height of 30 feet (9.14 metres) and Lot 2 shall have a front yard of 25.0 feet (7.62 metres) abutting Regent Avenue and a front yard of 10 feet (3.048 metres) abutting Pandora Avenue.

         b. That free standing identification or business signs be prohibited along the Pandora Avenue frontage;

         c. That temporary or special event signs be prohibited on the site, including mobile signs, balloon signs, posters, sandwich boards, banners, bunting streamers or similar attention getting devices, except for 30 days following the issuance of an occupancy permit;

         d. That identification or business signage on the west, east and south sides of the building be prohibited;

         e. That, 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;

         f. That vehicular access to the site shall be prohibited from Pandora Avenue;

         g. That there be no loading or unloading at any building entrances on the east or south sides of the building located within 25 feet of Pandora Avenue;

         h. That a pedestrian walkway be implemented along the east property line from Regent Avenue to the front portion of the building located within 25 feet of Pandora Avenue;

         i. All lighting used to illuminate any building, parking or storage area shall be arranged and shielded so that it does not reflect onto adjacent streets and properties, in particular residential properties;

         j. All lighting shall upon the request of the Director of Planning, Property and Development, be equipped with whatever additional shielding, lenses, or cut-off devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate

glare perceptual to persons on any street or abutting lot or parcel. In addition, the Director may require that the light trespass and glare be limited to a reasonable level through fixture location, height and intensity;

k. 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 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 the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement **DASZ 20/93** dated, **December 17, 1993** as approved in aforesaid Clause 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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 # ZAA 05/06

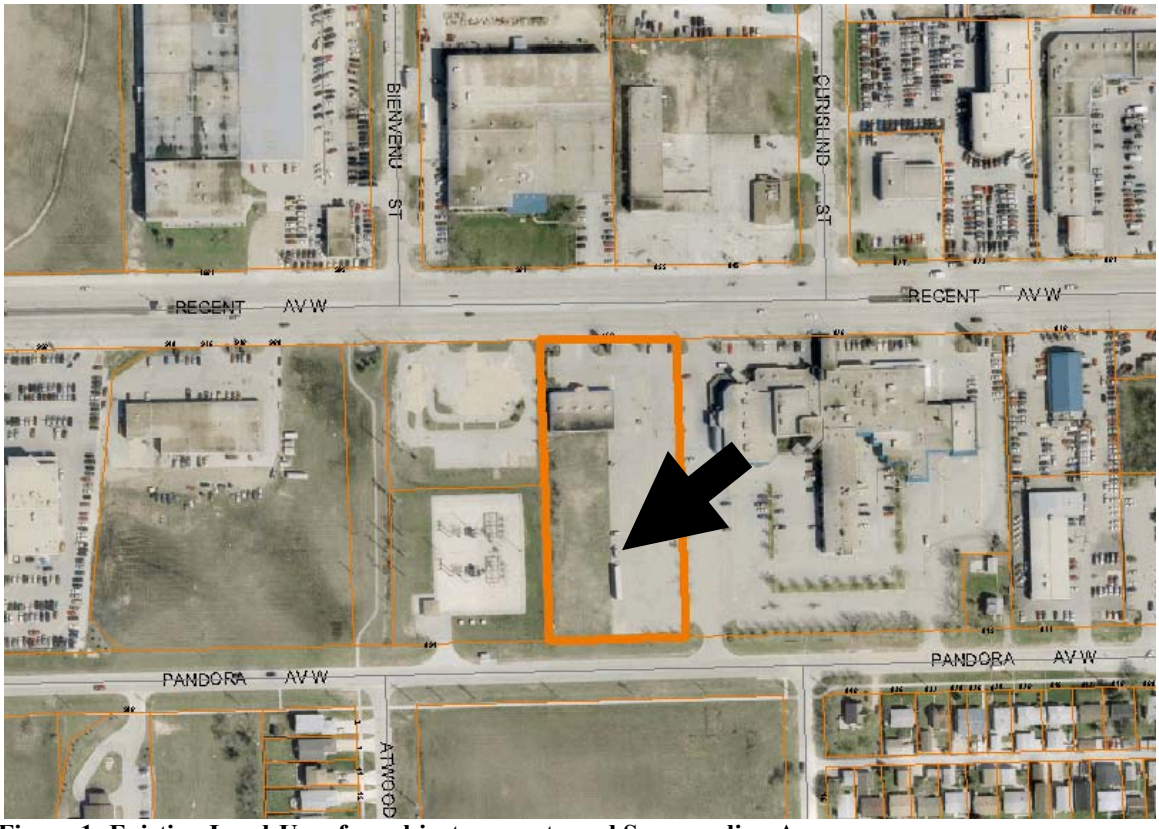


Figure 1: Existing Land-Uses for subject property and Surrounding Area.

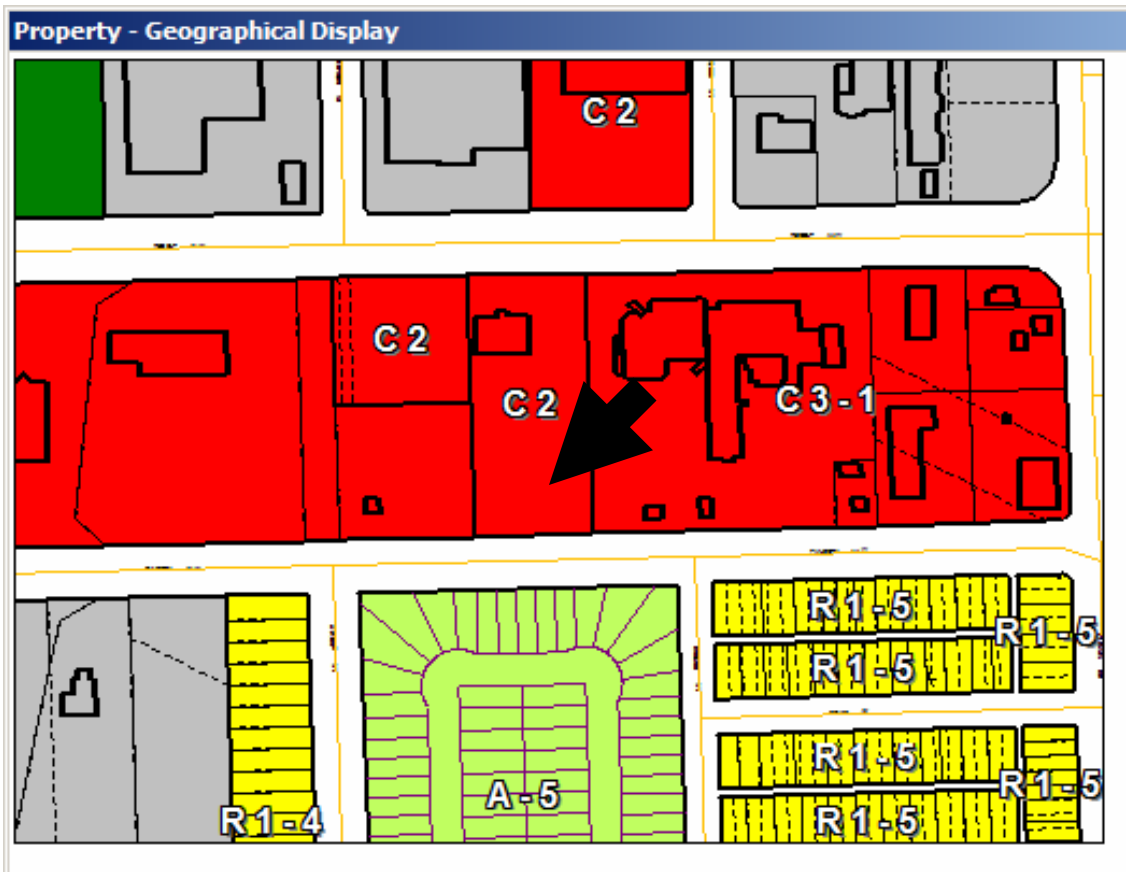


Figure 2: Existing Zoning for subject property and Surrounding Area.



Figure 3: Canad (Golden Oak) Inn adjacent to Pandora Avenue.