Minute No. 256
Report - Standing Policy Committee on Property and Development - January 30, 2007

Item No. 6 Subdivision and Rezoning - 2165 Henderson Highway
File DASZ 49/2006

COUNCIL DECISION:

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

1. That the plan of subdivision proposed under File DASZ 49/2006 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 49/2006 dated December 28, 2006, 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 DASZ 49/2006 dated December 28, 2006, to a "C1" 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, 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.

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

   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.

Report - Standing Policy Committee on Property and Development - January 30, 2007

COUNCIL DECISION (continued):

D. 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.

4. 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.

5. That a ten (10%) percent 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.

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 the registration of the Plan in the Winnipeg Land Titles.

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. 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 - January 30, 2007

DECISION MAKING HISTORY:

Moved by Councillor Swandel,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 14, 2007, 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 January 30, 2007, 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 January 15, 2007, 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: **Subdivision and Rezoning - 2165 Henderson Highway**
File DASZ 49/2006 [c/r DAV 163776/2006D]

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

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

Report date: **January 22, 2007**

COMMUNITY COMMITTEE RECOMMENDATION:

On January 15, 2007, 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 plan of subdivision proposed under File DASZ 49/2006 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 49/2006 dated December 28, 2006, 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 DASZ 49/2006 dated December 28 to a "C1" 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, 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.

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

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 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.

4. 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.

5. That a ten (10%) percent 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.

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 the registration of the Plan in the Winnipeg Land Titles.

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. 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 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 reason for its recommendation:

1. The East Kildonan-Transcona Community Committee agreed with the administrative comments contained in the report from the Planning and Land Use Division dated December 28, 2006.

PUBLIC HEARING SUMMARY

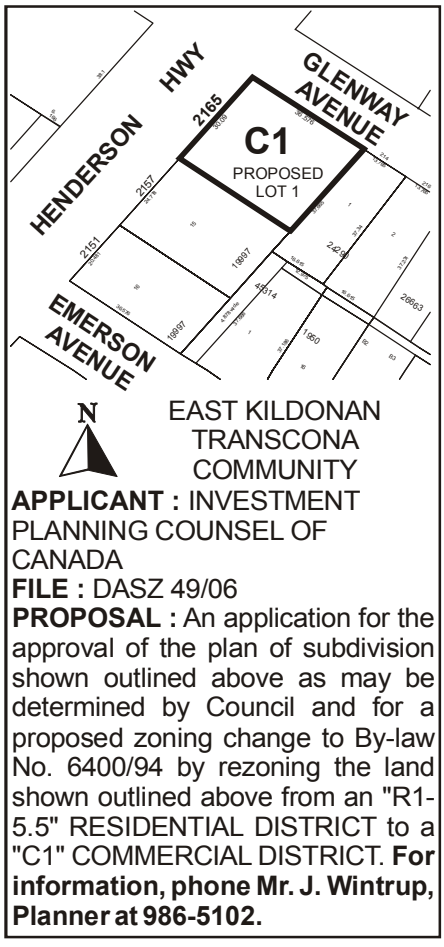
File: DASZ 49/2006 [c/r DAV 163776/2006D]

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

Public Hearing: January 15, 2007
Community Committee Chambers, 755 Henderson Highway

Applicant: Investment Planning Counsel of Canada
(Todd Peters)

Subject:



Premises Affected: 2165 Henderson Highway

Exhibits Filed:

1. Application dated December 15, 2006
2. Notification of Public Hearing dated December 14, 2006
3. Manitoba Status of Titles 1126357 and 1126358
4. Letter of authorization dated October 3, 2006, from the President, Popko Realty Ltd., to Investment Planning Counsel of Canada
5. Drawing of subject property
6. Plans (6 pages)
7. Report from the Planning and Land Use Division dated December 28, 2006
8. Inspection Report

REPRESENTATIONS:

In Support:
Todd A. Peters, Investment Planning Counsel of Canada
Guenter Schaub
Karl Schaub

In Opposition
Nil

For Information:
Nil

For the City:
Mr. J. Wintrup, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Todd A. Peters, Investment Planning Counsel of Canada, appeared in support of the application. He advised that more than 50% of the clientele utilizing the services of the financial planning company are 50 years of age or older and was one of the basis for the design of the proposed building.

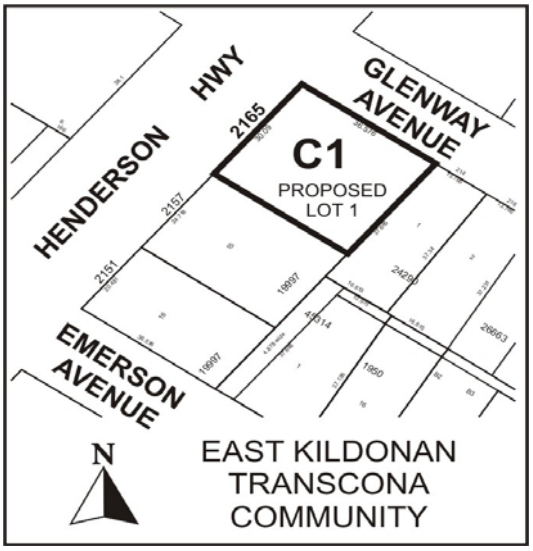
Exhibit "7" referred to in File DASZ 49/2006 [c/r DAV 163776/2006D]

Winnipeg

Planning, Property and Development Department Report

To the East Kildonan - Transcona Community Committee

Date: **December 28, 2006**
File: **DASZ 49/06**
Related Files: **DAV 06-163776/D**
Subject: **Rezone and consolidate properties for a commercial use.**
Location: **2165 Henderson HWY**



Applicant: Todd Peters Investment Planning Council of Canada

Owner: POPKO REALTY LTD

Recommendation: **Approve with Conditions**

Report Summary:

- The applicant has applied to rezone and consolidate the land to construct a one story building for a financial planning company.
- The commercial zone is appropriate to allow this commercial use.
- The Division is recommending a revised site plan be submitted.

Site Description

The subject property is **5,858 square feet** located on the south east corner of Henderson Hwy and Glenway Avenue in the River East neighbourhood of the North Kildonan Ward. The site is zoned "R1-5.5" Residential District. Adjacent properties include a commercial property to the south zoned "C2" Commercial District and residential properties to the east zoned "R1-5.5". Directly west across Henderson Hwy is City of Winnipeg owned land used for a transit loop.

Background

The Existing Buildings Branch issued an order to repair or demolish a 625 sq ft Single Family Dwelling and 600 sq ft detached garage that occupied the site. A demolition permit was subsequently issued and the buildings removed in October, 1999.

DAV 06-163776/D
The applicant has made an application for a 'use' variance and to allow two parking stalls with abutting aisle way in the northwest corner of the lot.

Description of the Proposed Development

The applicant has applied to rezone and consolidate the land to construct a one story building for a financial planning company.

Analysis

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

SECONDARY PLAN
The North Henderson Hwy Secondary Plan boundaries include the subject lands. The overall goal of the secondary plan is to retain the rural residential character of Henderson Hwy by retaining the single family dwellings. This Secondary Plan makes a provision to allow the rezoning of this vacant, residential land to commercial. The proposed rezoning will complete the block of land between Glenway and Emerson as commercial; and is compatible with the existing land-use on the west side of Henderson Hwy.

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 **"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 BYLAW ISSUES

- The East Kildonan – Transcona Community Committee is restricted from extending a variance for use beyond 5 years as per the City of Winnipeg Charter Section 247(4).
- The property must, within 5 years, be rezoned to "C1" Commercial District to permanently permit the commercial use.
- The variance, if granted, will allow the applicant to begin construction of the building prior to a rezoning being approved by Council.
- The variance may be appealed in which case an additional public hearing is held to consider only the variance, not the rezoning.

COMPATIBILITY WITH SURROUNDING USES

The lands directly west across Henderson Highway are owned by the City of Winnipeg and used for a Transit Loop. These lands are zoned residential. Any redevelopment to a residential use would likely result in flankage along Henderson Hwy with frontage on to Glenway Ave.

A similar commercial land use to the south is a single story commercial building with parking in the rear and landscaping in the front yard. The design of this building resembles a residential dwelling. The lands directly east are single family residential and conflicts between the proposed commercial use and the existing residential use can be mitigated through landscaping and fencing.

SITE DESIGN ISSUES

The applicant has submitted a site plan for the proposed development. The site plan indicates parking areas covering a majority of the lot including the front yard, south side yard and the entire rear yard. The garbage containers are placed in the north side yard abutting Glenway. Specific details regarding the types of trees are not listed.

There is a certain expectation that this lot will be consistent with the surrounding area by providing landscaping in the front and north side yards. The residential dwellings directly to the east all have landscaped front yards along Glenway. The commercial building directly to the south has a landscaped front yard along Henderson. The subject property is also a gateway entrance into the City of Winnipeg along a route that has been designated an 'Image Corridor'.

The Division is recommending that a revised plan be submitted. The revised plan needs to indicate the specific details of the fencing and landscaping, which will mitigate the negative impacts; and provide landscaping in the yards, which will be consistent with the adjacent properties.

Mitigating Elements

- Wood barrier fencing built to the maximum allowed height will need to be constructed along the east property line to provide screening for the adjacent dwelling.
- The garbage enclosure should be behind the building in the rear yard in order to ensure it is screened and not visible from Glenway or Henderson Hwy; and out of sight of the office windows.

Landscaped Yards

- Landscaping (trees, shrubs, grass) in the north yard will be consistent with the established residential character to the east;
- Landscaping (trees, shrubs, grass) in the front yard will be consistent with the established commercial character to the south;
- Landscaping (trees, shrubs, grass) in the northeast corner of the lot will be consistent with the historical rural residential image of Henderson Hwy that has been reinforced by the North Henderson Hwy and the Henderson Hwy Secondary Plans, and the Image Route Designation.

Recommendation

The Planning and Land-Use Division supports rezoning the property from residential to commercial. The proposed use is consistent with the adjacent property to the south that fronts Henderson Hwy.

Signage is a particular concern considering the close proximity of the residential dwellings directly to the 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.

A site plan will need to be submitted for approval that indicates design specifics for landscaping, building façade, fencing, signage, garbage enclosure, etc. This site plan will require approval at the EKTCC as a public meeting, and will not require a public hearing. This approval can be sought at the time of building permit application, thus the rezoning can be approved with a revised site plan submitted at a later date.

Recommended Conditions of Approval

1. That the plan of subdivision proposed under File No. **DASZ 49/06** be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. **DASZ 49/06,** attached hereto and dated **December 28, 2006**, 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 49/06** attached hereto and dated **December 28** to a **"C1" 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, 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.

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   D. 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;

4. 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 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 upon the registration of the Plan in the Winnipeg Land Titles.

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.

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

Report Prepared by: John S. Wintrup
PPD File # DASZ 49/06

Schedule "A"

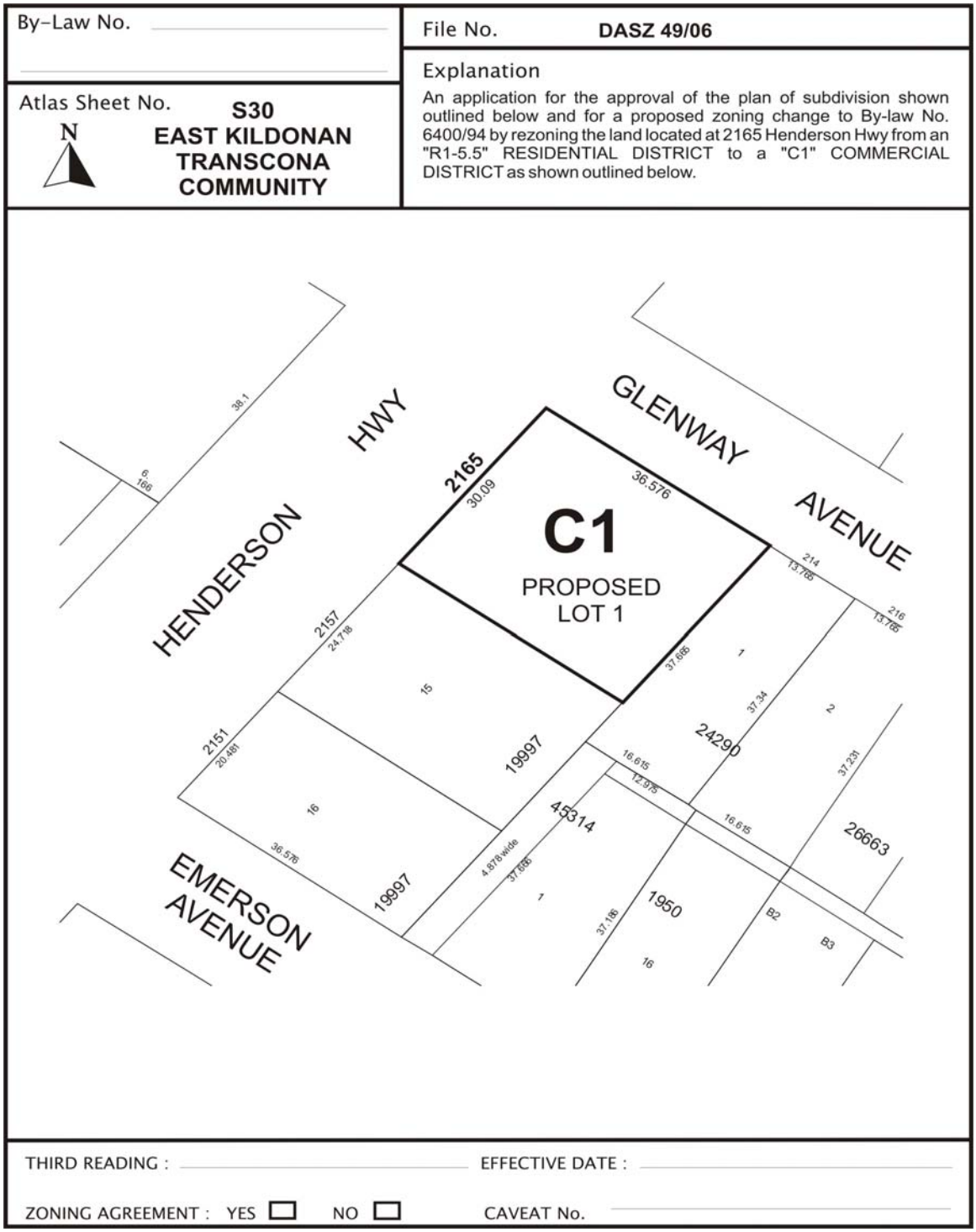


Figure 1: Schedule "A" to the report to the East Kildonan - Transcona Community Committee for File No. DASZ 49/06, dated December 28, 2006.



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

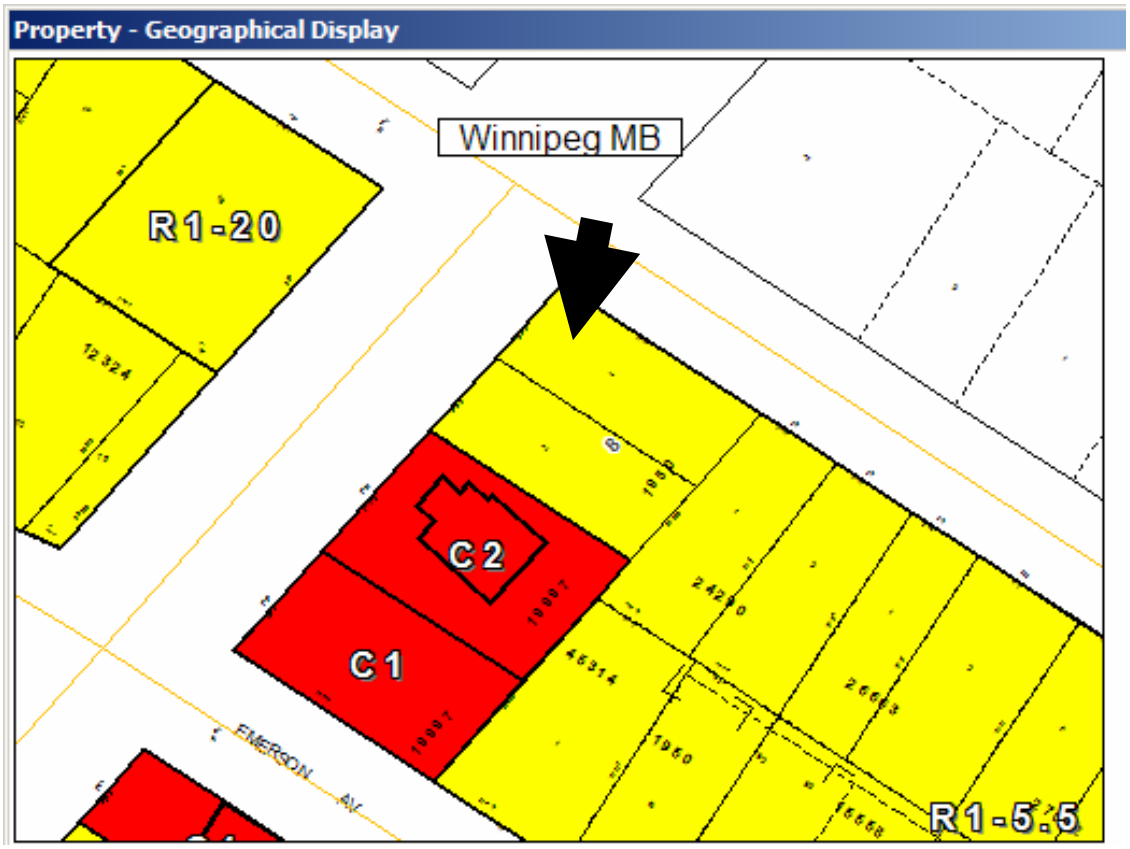


Figure 3: Existing Zoning for subject property and Surrounding Area.