Agenda - Council - October 24, 2007

Report - Standing Policy Committee on Property and Development - October 2, 2007

Item No. 4 Subdivision and Rezoning - 800 Knowles Avenue (North Kildonan Ward) File DASZ 23/2007

STANDING COMMITTEE RECOMMENDATION:

On October 17, 2007, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee and submits the following to Council:

1. That the plan of subdivision under File DASZ 23/2007 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 23/2007 dated July 4, 2007, for registration in the Winnipeg Land Titles Office subject to the following:

   A. That the Developer be required to enter into a Servicing Agreement AG 23/07 with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated July 4, 2007.

2. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 23/2007 dated July 4, 2007, to an "R1-4" Residential District.

3. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land and the creation of additional lots.

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

5. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

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

Report - Standing Policy Committee on Property and Development - October 2, 2007

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

8. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office.

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 - October 2, 2007

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 17, 2007, the Executive Policy Committee concurred in the recommendation 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 October 2 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 September 17, 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.

On July 9, 2007, the East Kildonan-Transcona Community Committee adjourned the public hearing to its meeting on September 17, 2007.

RE: **Subdivision and Rezoning**
File DASZ 23/2007

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

Prepared by: **Marc Pittet, Clerk,**
East Kildonan-Transcona Community Committee

Report date: **September 20, 2007**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 17, 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 under File DASZ 23/2007 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 23/2007 dated July 4, 2007, for registration in the Winnipeg Land Titles Office subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement AG 23/07 with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated July 4, 2007.

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3. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land and the creation of additional lots.

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

5. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

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

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

8. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office.

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.

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 of the Planning and Land Use Division dated July 4, 2007 and in the report from the Administrative Coordinating Group dated July 4, 2007.

PUBLIC HEARING SUMMARY

File:	DASZ 23/2007
Before:	East Kildonan-Transcona Community Committee Councillor Browaty, Chairperson Councillor Wyatt
Public Hearing:	September 17, 2007 July 9, 2007 Community Committee Chambers, 755 Henderson Highway
Applicant:	Evelyn Bourbonniere
Subject:	
Premises Affected:	800 Knowles Avenue

Exhibits Filed:

1. Application dated June 22, 2007
2. Notification of Public Hearing dated June 26, 2007
3a. Manitoba Status of Titles 1951767, 2181669; 2181718; 2181719; 2208547
3b. Certificate of Title B77087
4a. Letter of authorization dated November 28, 2006, from the Manager of Real Estate Division, City of Winnipeg, to Mr. and Mrs. Ljubic
4b. Letter of authorization dated May 29, 2007, from Mirko Ljubic and Ethel Ljubic to Evelyn Bourbonniere
4c. Letter of authorization dated May 29, 2007, from Aurele Bourbonniere to Evelyn Bourbonniere
5. Surveyor's Building Location Certificate and sketch dated April 24, 2007
6. Drawing of subject property
7. Plans (2 pages)
8. Report from the Planning and Land Use Division dated July 4, 2007
9. Report from the Administrative Coordinating Group dated July 4, 2007
10. Inspection Report
11. Communication from James Viehweg with respect to the application.
12. Presentation submitted by Evelyn Bourbonniere and Mirko Ljubic in support of the application at the Public Hearing on September 17, 2007

REPRESENTATIONS:

In Support:

Evelyn and Aurele Bourbonniere
Don A. Guigueno
Carole Kenning
Ethel and Mirko Ljubic
Ann Viehweg

In Opposition

Doug Henne, North Grassie Properties Inc.

For Information:

Dave Curti
Steve Halabura
Walter Schuppe
James Viehweg

For the City:

Kim Raban, Land Development Administrator, Planning, Property and Development Department
John Wintrup, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

July 9, 2007
Evelyn Bourbonniere was heard in support of the application and advised that the land along Knowles Avenue on the west side where her home is situated will remain unchanged and retain its existing zoning. She indicated that municipal services must be provided before properties can be sold.

Doug Henne appeared in opposition to the application and advised that he is not opposed to the subdivision of the subject land but is challenging some of the conditions proposed by the Administration. In this connection, he indicated that his client has a vested interest in terms of cost recoveries and reimbursement for requirements his client complied with as it relates to the Arrowwood Development which some he purported are of more benefit to the subject application than to his client, North Grassie Properties. He referenced Condition 1 of the Administrative Coordinating Group Report (Exhibit 9) requiring the applicant to pay its share of cost of services to be installed by others in Cindy Klassen Way. In this connection, he purported that in accordance with the Development Agreement Parameters, the majority of Lot 4 would be exempt from paying its share of services as it has several metres of flankage, which he felt was unfair to his client. He expressed his opinion that reimbursement should be based on the entire frontage and service costs should be attributable to all lots.

James Viehweg appeared for information. He indicated that he is not in opposition to the application but would like to see the construction of a uniform fence along the west property line of 830 Knowles Avenue to ensure that five different style fences are not constructed by the five future property owners of Lots 5 to 9.

In rebuttal, Evelyn Bourbonniere indicated that although she understands the concerns expressed by Doug Henne, her property located on Lot 4 will not benefit from any services of Cindy Klassen Way as the services will be off Knowles Avenue. In response to the request for a fence by James Viehweg, Evelyn Bourbonniere indicated that although she understands the concern and would accommodate a continuous fence, she questioned who would be responsible for maintenance of it.

Kim Raban, Land Development Administrator, and John Wintrup, Senior Planner, City of Winnipeg, provided an overview of the administrative recommendations.

Councillor Browaty indicated that he would be adjourning the subject public hearing to the East Kildonan-Transcona Community Committee's September meeting in order to review the requirements and related development and servicing agreements of the neighbouring Arrowwood development, as well as any precedents related to fencing conditions and how flankage relates to the recovery of the cost of services installed by others.

September 17, 2007
The applicant, Evelyn Bourbonniere, accompanied by Mirko Ljubic, appeared in support of the application and read in the record a presentation, filed as Exhibit 12.

Ann Viehweg appeared in support of the application and reiterated the request for the construction of a uniform fence along the west property line of 830 Knowles Avenue. Ms. Viehweg further stated that a series of five (5) different styles of fence along her property would devalue her property.

Doug Henne appeared in opposition to the application. Mr. Henne reiterated concerns raised at the public hearing held on July 9, 2007, with respect to cost recoveries and reimbursement for requirements his client complied with for the Arrowwood Development. Mr. Henne stated that this is an unusual situation in that there is no return for his client to provide the services in question and his client should be eligible for full recovery of costs with no flankage exemptions. Mr. Henne also requested that the applicant be required to pay a share of the cost of the turnaround that must be constructed when Knowles Avenue is closed.

In rebuttal, Mr. Ljubic stated that he did not agree with adding a condition to the servicing agreement that would require the applicants to pay for the construction of a uniform fence along the property line of 830 Knowles Avenue but, if required, would be willing to cost share, fifty-fifty, with the adjoining neighbour.

Exhibit "8" referred to in File DASZ 23/2007

Winnipeg

Planning, Property and Development Department Report

To the East Kildonan - Transcona Community Committee

Date: **July 4, 2007**
File: **DASZ 23/07**
DASZ 20/04; DASZ 45/04; DASZ 53/05; DASZ 12/06;
DASZ 15/07;
Subject: **Rezone and subdivide into single family residential lots.**
Location: **800 Knowles Avenue (Arrowwood)**



Applicant: **EVELYN BOURBONNIERE**
Owners: **AURELE & EVELYN BOURBONNIERE**
MIRKO & ETHEL A LJUBIC
City of Winnipeg

Recommendation: **Approve**

Report Summary:

- Eight **(8)** residential lots on Cindy Klassen Way.
-

Site Description

The subject properties are located on the southwest and southeast corners of Cindy Klassen Way and Knowles Avenue in the Springfield North neighbourhood of the North Kildonan Ward. The sites are zoned "R1-5.5" Residential Districts along the first 110 feet of Knowles Avenue and the remainder "A-5" Agricultural District. Surrounding lands include the Arrowwood Subdivision zoned single family district to the south.

Background

DASZ 20/04 Arrowwood
This application was made in June of 2004. The Division recommended in October, 2004 at a Public Hearing that DASZ 20/04 be laid over to allow the developer time to work with the City of Winnipeg to generate a revised plan due to issues surrounding lake size, street pattern, street location, etc. The developer was also asked to submit a concept plan for the properties on the north side of Bonner, east of Mitchelson Way. DASZ 20/04 went to a Public Hearing in February, 2005 and approved by Council May, 2005 (Figure 5).

Description of the Proposed Development

The owners of two properties fronting Knowles Avenue and flanking Cindy Klassen Way are proposing to subdivide and rezone their rear lands zoned 'Agricultural' into single family lots fronting Cindy Klassen Way.

Analysis

PLAN WINNIPEG
The proposed concept complies with Plan Winnipeg in that a residential rezoning is allowed in Neighbourhood Policy Areas. The proposed development is supported by the following policy:

3B-02 Guide the Development of New and Existing Residential Areas
The City shall guide the development of new and existing residential areas designated as Neighbourhood by:

i) requiring development to provide a full range of municipal infrastructure in an environmentally-sound, economical, and timely manner

All rezonings and new developments must concur with Plan Winnipeg Policies. The applicant proposed rezoning/subdivision for new single family dwellings along Knowles Avenue as part of this application. However, this can not occur without a full range of municipal services. The lands along Knowles Avenue will remain with its existing zoning as a residual parcel with an existing single family dwelling that can be further subdivided/rezoned in the future when full municipal services are provided along Knowles Avenue.

ZONING

- The **"R1-5.5" Residential District** extends 110 feet deep from Bonner Avenue with the remainder of the lot zoned "A-5".
- The **"R1-4" Single Family Residential District** will require a minimum lot size of 4,000 square feet and minimum lot width of 40 feet.

COMPATIBILITY WITH SURROUNDING USES
The application is consistent with the approved plan of subdivision for Arrow wood and the concept plan drafted at the time of DASZ 20/2004.

LAND USE BY-LAW ISSUES
The proposed zoning category is consistent with a number of residential subdivisions in Winnipeg such as Eaglemere, Amber Trails, Canterbury Park, Whyte Ridge and Riverbend South. The range of lot sizes will permit the construction of a variety of new single family dwellings that will diversify the housing stock and provide residents with different housing options.

SITE PLAN
The proposed new lots will front Cindy Klassen Way: Headmaster Row is a residential collector street, the intention is to limit front approaches along this right-of-way and this subdivision meets that goal. Residual parcels of land adjacent to Headmaster Row and Cindy Klassen Way, which were left over from the Arrowwood Subdivision, will be consolidated into the new residential lots.

Recommendation

The Planning and Land Use Division recommends approval of the proposed rezoning and subdivision for the following reasons:

- The plan of subdivision will complement the approved plan for Arrow wood.
- The development represents a logical completion of Cindy Klassen Way, north of Headmaster Row.

Recommended Conditions of Approval

1. That the plan of subdivision proposed under File DASZ 23/2007 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 23/2007 dated July 4, 2007, for registration in the Winnipeg Land Titles Office subject to the following:

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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 23/07

Schedule "A"

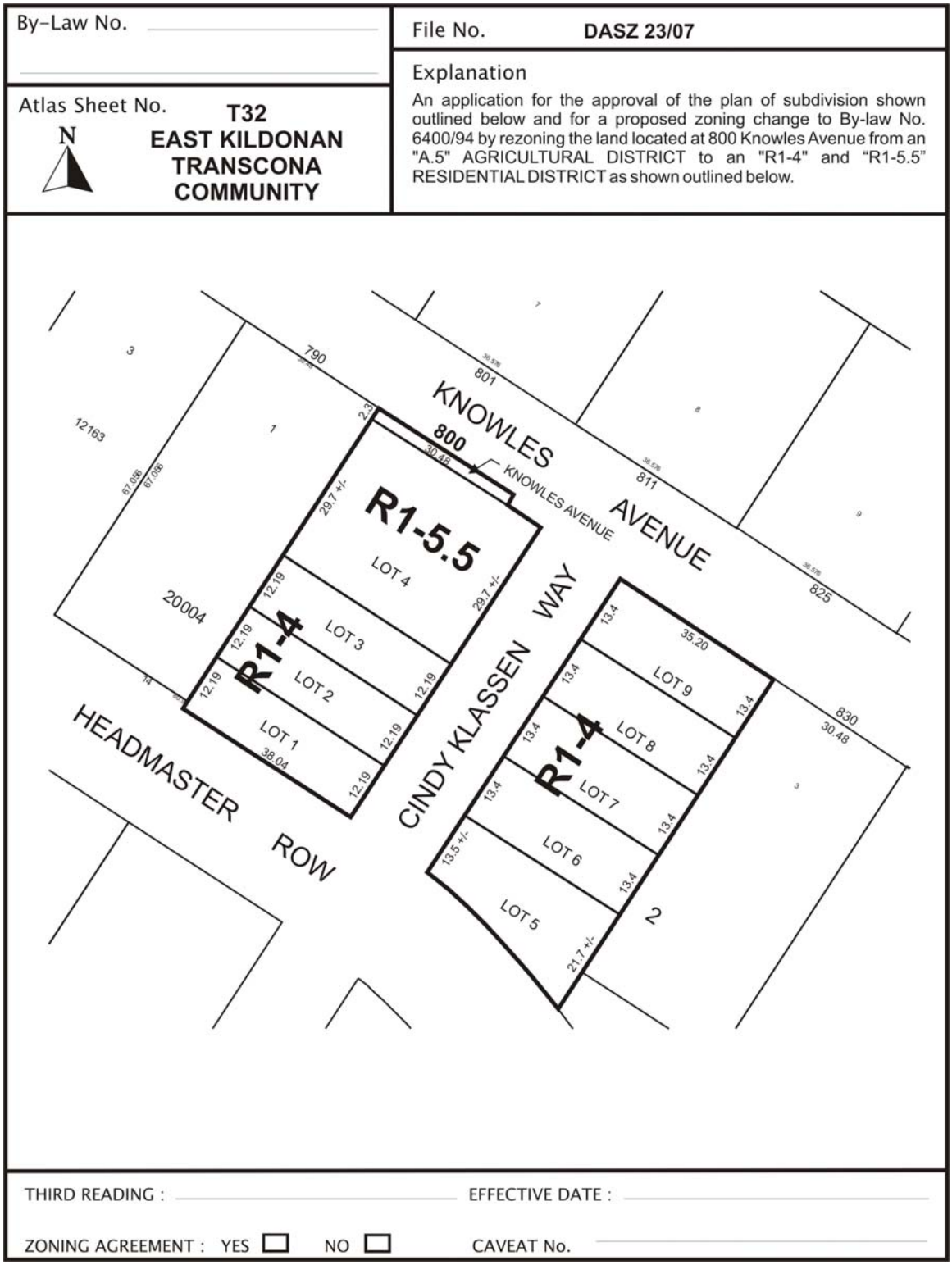


Figure 1: Schedule "A" to the report to the East Kildonan - Transcona Community Committee for File No. DASZ 23/2007, dated July 4, 2007.



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

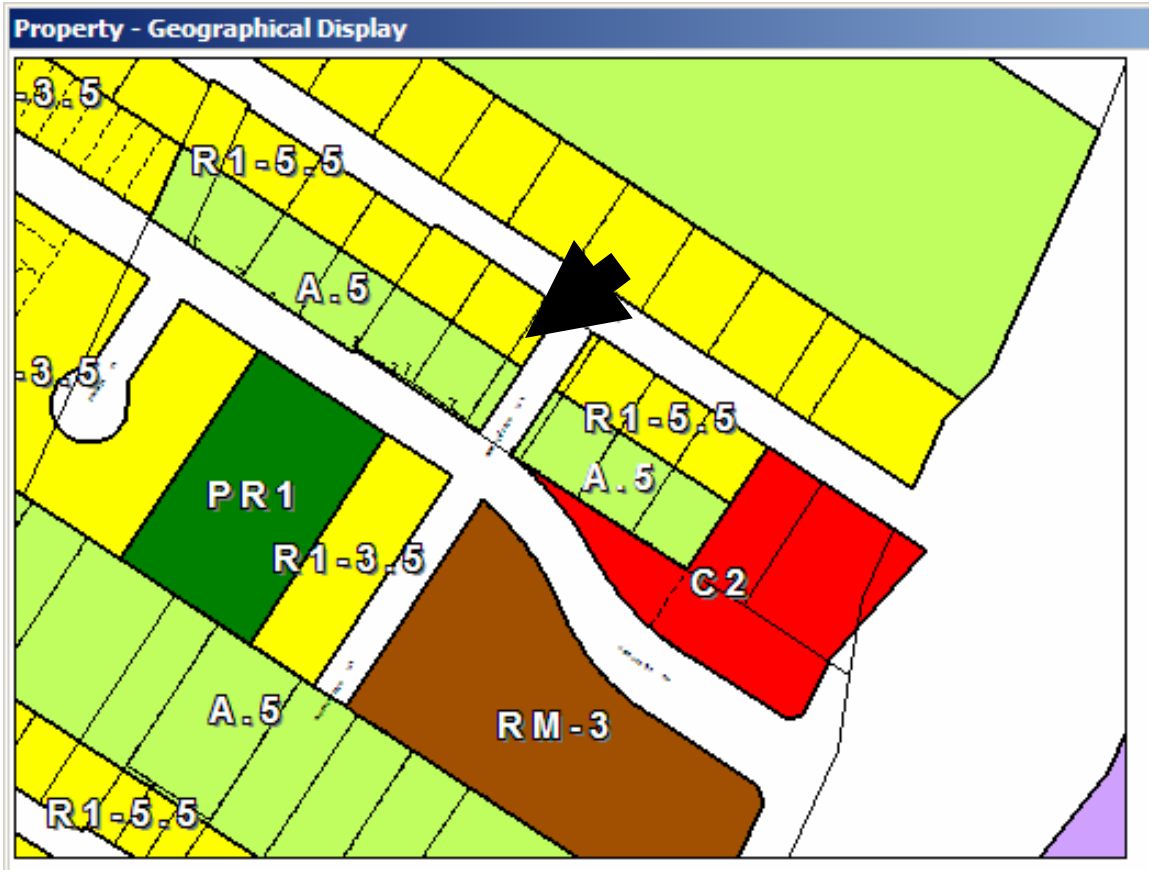


Figure 3: Existing Zoning for subject property.

Exhibit "9" referred to in File DASZ 23/2007

RE: PROPOSED SUBDIVISION AND REZONING ON LAND LOCATED ON THE EAST AND WEST SIDES OF CINDY KLASSEN WAY, BETWEEN HEADMASTER ROW AND KNOWLES AVENUE – DASZ 23/07

An application has been submitted by E. Bourbonniere, 800 Knowles Avenue, to subdivide and rezone land to establish 8 residential building lots on Cindy Klassen Way. Cindy Klassen Way was opened by plan registration under Development Agreement AG 20/04.

It is therefore recommended that approval of application DASZ 23/07 be subject to the Developer entering into a Servicing Agreement as follows:

1. The Developer shall, prior to the release of building permits, pay its share of the cost of services to be installed by others in Cindy Klassen Way, as determined by the Director of Public Works and the Director of Water and Waste.

2. The Developer shall pay its share of the cost of improvements to be installed by others at and in the vicinity of the intersection of Headmaster Row and Lagimodiere Boulevard, as determined by the Director of Public Works.

3. The Developer shall pay its share of the cost of oversize pavement in Headmaster Row, as determined by the Director of Public Works.

4. The Developer shall pay its share of the cost of land drainage trunk facilities benefiting the subject property as determined by the Director of Water and Waste.

5. The Developer shall submit a lot grading plan prepared by a municipal engineer, shall grant any easements and, if required, shall construct, at no expense to the City, any catchbasins and leads as may be necessitated by the design.

6. The Developer shall abandon their existing private water and wastewater services and connect 800 Knowles Avenue to City services.

7. The Developer shall pay $1,650.00 plus G.S.T. to defray the City's administration and related costs associated with the preparation and implementation of this agreement;

8. The Developer shall, at no expense to the City, construct and install separate water and wastewater service connections for all lots within the proposed subdivision as determined by and to the satisfaction of the Director of Water and Waste.

9. The Developer shall pay the full cost of the engineering services provided by or on behalf of the City in connection with the installation of services required to serve the proposed subdivision.

THIS REPORT SUBMITTED BY:

Administrative Coordinating Group
File No. DASZ 23/07
July 4, 2007

"original signed by K.T.Raban, P.Eng."
Land Development Engineer

"original signed by T. Josephson, P.Eng."
Water and Waste Department

"original signed by R. Hartmann, P.Eng."
Public Works Department