Agenda - Council - October 24, 2007

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

Item No. 6 Rezoning - 1032 Cathedral Avenue
(Point Douglas Ward)
File DAZ 228/2007 [c/r DAV 145204/2007D]

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 Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 228/2007 dated September 1, 2007, to a "C1" Commercial District, subject to the following:

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

      i. That only the following uses shall be permitted on the land:
         a. Office
         b. Dwelling, Single-Family

      ii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site

      iii. That for the development of any building and/or accessory parking area and/or signage, plans showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage shall be submitted to and approved by the Director of Planning, Property and Development prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

2. 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.

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

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

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

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

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

Report - Standing Policy Committee on Property and Development - 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 Lord Selkirk-West Kildonan 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 Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 18, 2007, the Lord Selkirk-West Kildonan Community Committee did not concur in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 1032 Cathedral Avenue**
File DAZ 228/2007 [c/r DAV 145204/2007D]

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

Prepared by: **Diane Timmins, Clerk,**
Lord Selkirk-West Kildonan Community Committee

Report date: **September 26, 2007**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 18, 2007, the Lord Selkirk-West Kildonan Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. ***That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 228/2007 dated September 1, 2007, to a "C1" Commercial District, subject to the following:***

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

        i. ***That only the following uses shall be permitted on the land:***
            a. ***Office***
            b. ***Dwelling, Single-Family***

        ii. ***That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site***

        iii. ***That for the development of any building and/or accessory parking area and/or signage, plans showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage shall be submitted to and approved by the Director of Planning, Property and Development prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.***

2. ***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.***

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

4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) readings.

5. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

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

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

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

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reasons for its recommendation:

1. The Lord Selkirk-West Kildonan Community Committee did not agree with the administrative comments contained in the report of the Planning and Land Use Division dated September 1, 2007.

2. The Lord Selkirk-West Kildonan Community Committee acknowledged that there are letters in support from neighbouring residents, and noted that the lack of opposition to this application, must mean the residential community is not opposed to the proposed commercial addition, namely, a law office.

PUBLIC HEARING SUMMARY

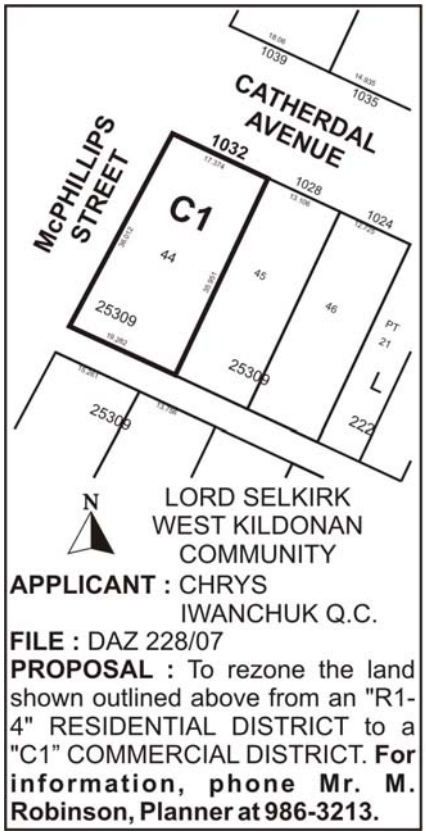
File: DAZ 228/2007 [c/r DAV 145204/2007D]

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Pagtakhan, Chairperson
Councillor O'Shaughnessy

Public Hearing: September 18, 2007
Council Chamber, Council Building, 510 Main Street

Applicant: Chrys Iwanchuk, Q. C.

Subject:



Premises Affected: 1032 Cathedral Avenue

Exhibits Filed:
1. Application dated August 8, 2007
2. Notification of Public Hearing dated August 16, 2007
3. Manitoba Status of Title 2225919

4. Surveyor's Building Location Certificate and sketch dated June 22, 2007
5. Main Floor Plan
6. Site Plan
7. Communication dated August 19, 2007 from Rose Andrusyshyn, in support of the application
8. Communication dated August 19, 2007 from Brad Profeta and Dawn Scott, in support of the application
9. Communication dated August 19, 2007 from Valerie Bialkowski, in support of the application
10. Communication dated August 20, 2007 from Rose Fegus, in support of the application
11. Communication dated August 20, 2007 from A. Multins, in support of the application
12. Communication dated August 23, 2007 from Donald G. and Lorraine Kiffic, in support of the application
13. Communication dated August 25, 2007 from Eddy and Annette Janas, in support of the application
14. Report from the Planning and Land Use Division dated September 1, 2007
15. Inspection Report

REPRESENTATIONS:

In Support:

Chrys Iwanchuk, Q.C.
Rose Andrusyshun
Valerie Bialkowski
Rose Fegus
Eddy and Annette Janas
Donald G. and Lorraine Kiffic
Albert Multins
Brad Profeta and Dawn Scott

In Opposition:

Nil

For the City:

Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Chrys Iwanchuk, the applicant, appeared in support of the application and advised Committee the subject property is located on Cathedral Avenue at the corner of McPhillips Street across from Andrew Mynarski School. Mr. Iwanchuk stated the opinion this is an ideal location to relocate his law practice to, and that rezoning to a "C1" Commercial category was necessary to allow the addition of a law office to the existing residence. Committee was apprised of the fact that Mr. Iwanchuk discussed the rezoning application with his neighbours before the public hearing and that they have no objections to his proposal. In this connection, Mr. Iwanchuk drew Committee's attention to the six (6) letters in support from neighbouring residents that were submitted prior to the public hearing, filed as Exhibits 7 to 13 inclusive.

Mr. Iwanchuk gave an overview of the proposed 682 sq. ft. addition to the existing building on the subject property and noted that the addition will be on the McPhillips Street side of the property rather than on the side of the residential neighbourhood. He commented his law practice is not a practice that would have a high density of people coming into the office and that his clients would come on an appointment basis. In answer to Committee's question, Mr. Iwanchuk stated there would probably be a total of four people working in the law office; himself, his son and possibly two employees. With respect to the issue of parking, Mr. Iwanchuk noted there was parking available on McPhillips Street. With respect to signage, Mr. Iwanchuk advised Committee he had no intention of putting up any huge sign on the property, but would consider putting up a small sign to identify the office of Chrys Iwanchuk on the McPhillips Street side of the property.

In summary, Mr. Iwanchuk reiterated that his proposal will not negatively affect the surrounding residential community and noted that the lack of opposition at the public hearing demonstrates the fact that the residential community is not opposed to his rezoning application.

Exhibit "14" referred to in File DAZ 228/2007 [c/r DAV 145204/2007D]

Winnipeg

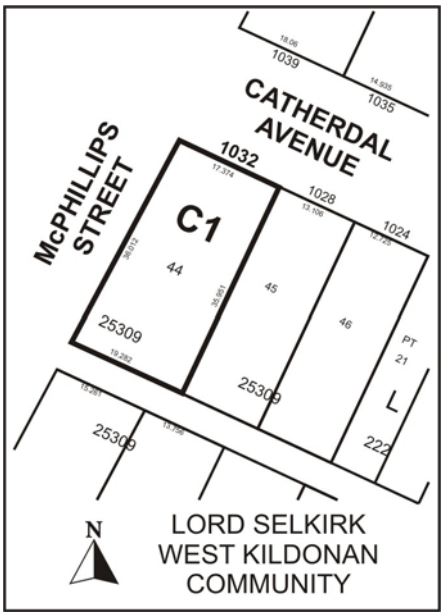
Planning, Property and Development Department Report

To the Lord Selkirk-West Kildonan Community Committee

Date: **September 1, 2007**
File: **DAZ 228/2007**
Related Files: **DAV 07-145204/D**

Subject: **Application to amend By-Law 6400/94 by rezoning the subject land from a "R1-4" Residential District to a "C1" Commercial District in order to establish an office use**

Location: **1032 Cathedral Avenue**
Legal Description:



Applicant: **Chris Iwanchuk**

Owner: **Chris Iwanchuk and Cecilia De La Cruz**
6070

Recommendation: ***Denial***

Report Summary:

- The Planning and Land Use Division recommend that this application be denied
- The proposed rezoning is an extension of commercial development into an existing residential area
- The application is inconsistent with Plan Winnipeg Policy 3B-05; which promotes the redevelopment, infill, and expansion of existing commercial areas as the preferred method of accommodating new commercial development

Site Description

The subject property, which is zoned "R1-4" Residential, is located at the southeast corner of McPhillips Street and Cathedral Avenue, in the Robertson neighbourhood of the Point Douglas Ward.

North: Residences zoned "R2" Residential
South: Residences zoned "R1-4" Residential
East: Residences zoned "R1-4" Residential
West: School zoned "PR-1" Parks and Recreation District

Description of the Proposed Development
The applicant wishes to rezone the subject property from "R1-4" Residential to "C1" Commercial in order to add a law office to an existing residence. He indicates that he will be residing at the premises.

The applicant further indicates that there will be a maximum of 4 individuals working at the law office.

This use is not considered a home occupation under By-Law 6400/94 because of the size and number of employees involved in the establishment.

Analysis

McPhillips Street already has a number of residential properties with commercial zoning (see Map 1). These properties front onto McPhillips Street and are separated from adjoining residential properties by a rear lane.

Some of these properties have already been converted into commercial offices and professional service establishments, however there are still many properties which have commercial zoning but remain residential.

The benefit of containing the commercial zoning to properties fronting McPhillips Street is that it eliminates encroachment of incompatible uses upon the residential environment and minimizes the impact of commercial development upon the character of the adjacent residential districts.

Given that there is already an abundance of land on McPhillips Street which is zoned commercial and could be converted to a commercial use – without a rezoning – the proposed application appears inconsistent with PLAN WINNIPEG Policy 3B-05 – which includes the following two policy statements:

The City shall promote commercial densification in a manner consistent with its commitment to compact urban form by:

i Encouraging the redevelopment, infill, and expansion of **existing commercial areas** as the preferred method of accommodating new commercial development

ii Approving new locations for commercial development **only where significant residential areas are not well served with commercial space, where existing commercial areas cannot accommodate expansion**, where the long-term negative impacts on existing and regional commercial centres will be minimal, where additions to the regional street system can be demonstrated to have long term benefits, and where a full range of municipal infrastructure can be provided in an environmentally sound, economical, and timely manner

Public Input

The City has received letters of support for this application from a number of homeowners in the immediate area.

Recommendation

The Planning and Land Use Division recommend denial for the reasons stated above:

However, should the Community Committee wish to approve the application, the following conditions should be considered:

Recommended Conditions of Approval

1. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 228/2007 dated September 1, 2007, to a "C1" Commercial District, subject to the following:

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

      i. That only the following uses shall be permitted on the land:

a. Office
b. Dwelling, Single-Family

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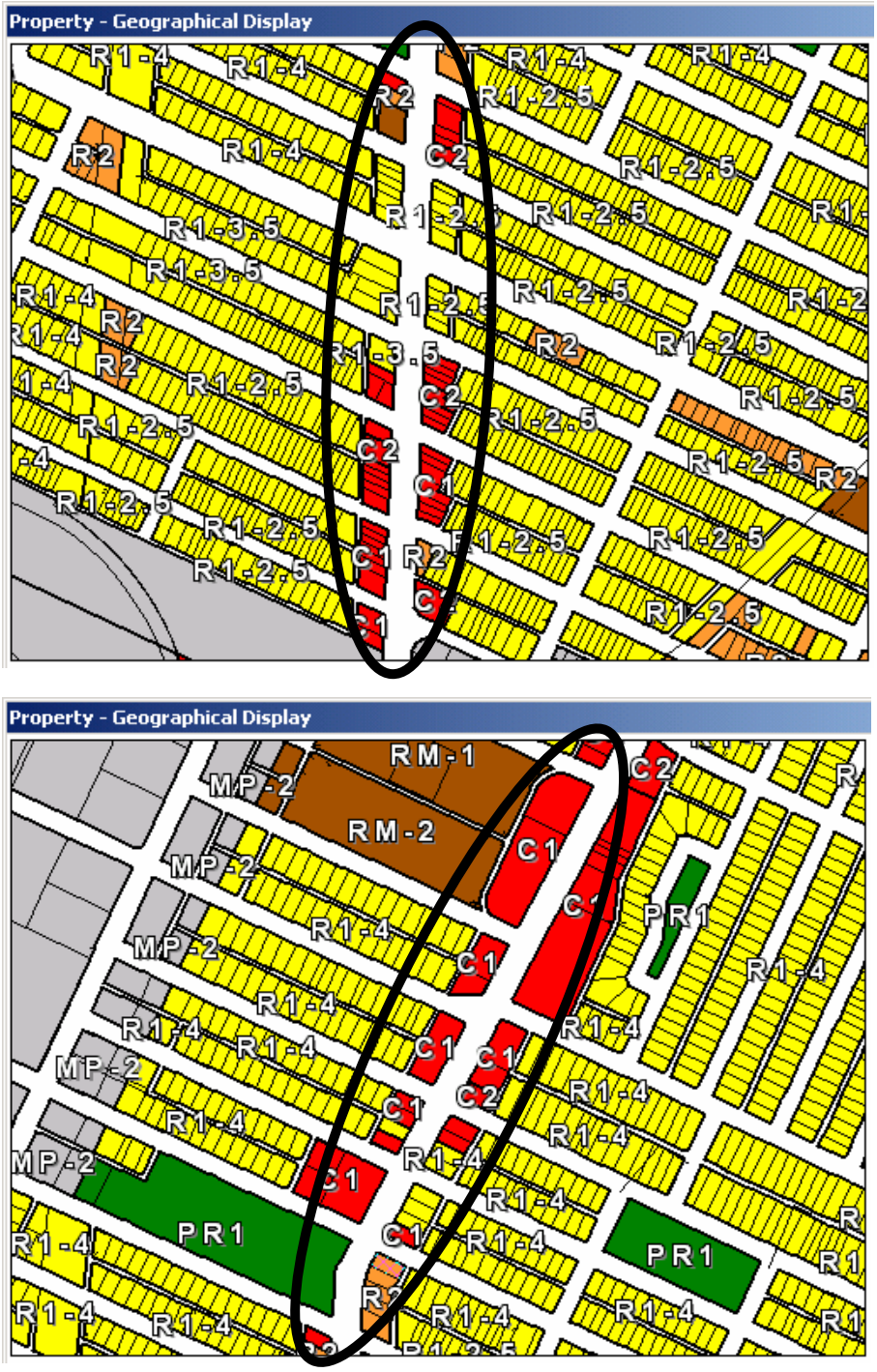
6. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

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

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

Report Prepared by: Michael Robinson, AICP
PPD File # DAZ 228/2007

Map 1: Commercial zoning on McPhillips Street from Selkirk Avenue to Mountain Avenue



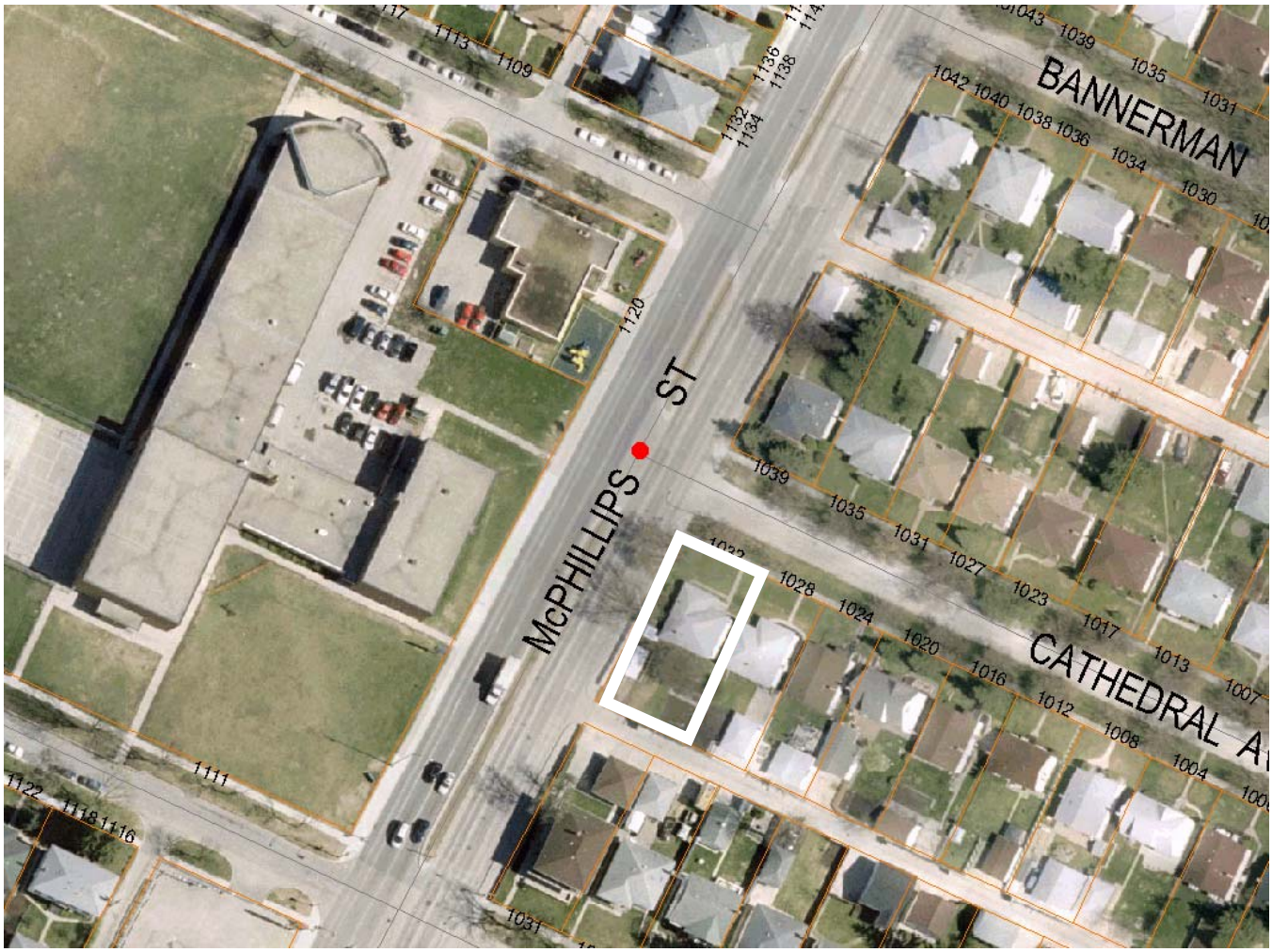


Figure 1: Aerial Photo (Flown in 2005)

Schedule "A"

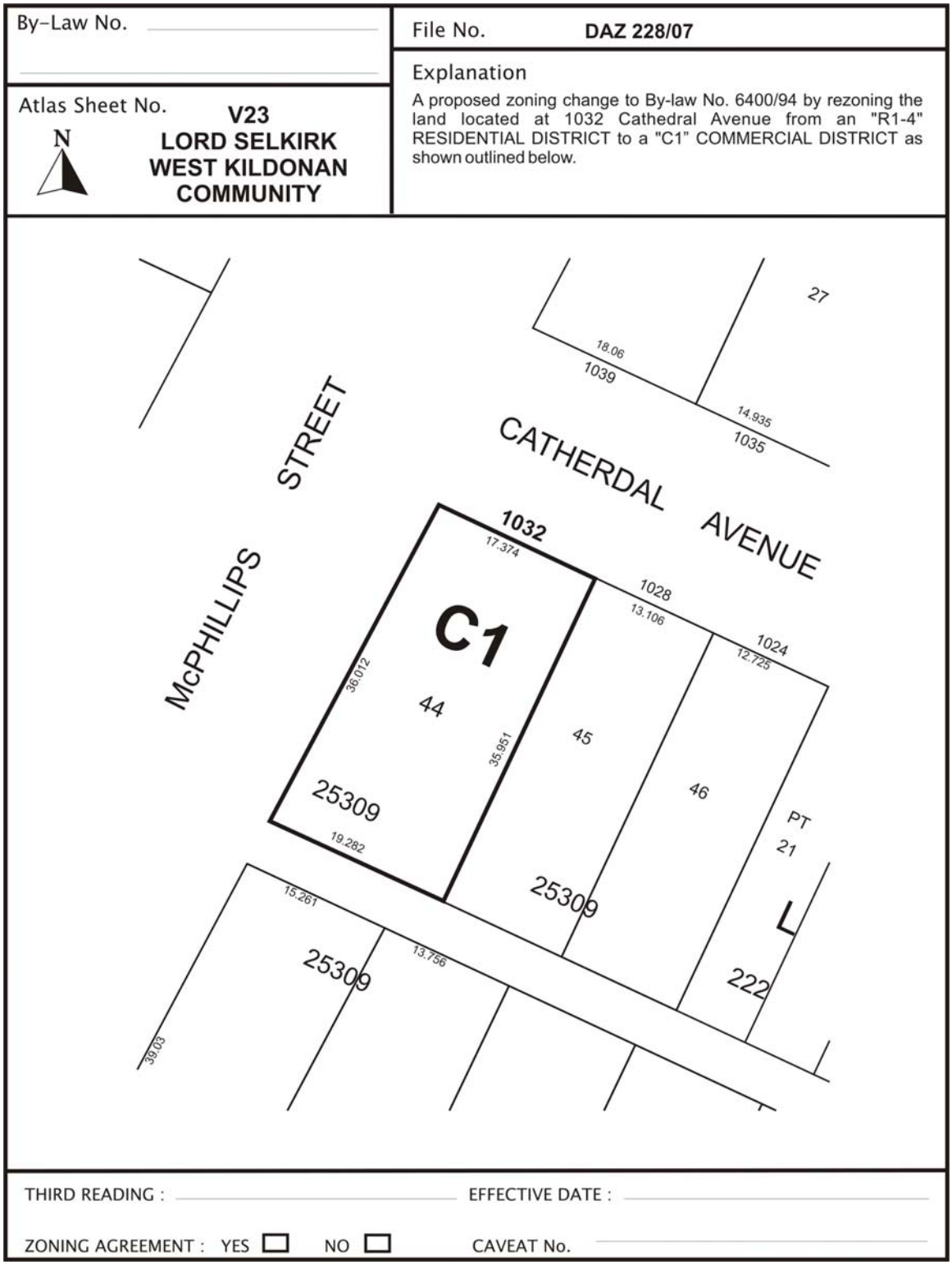


Figure 1: Schedule "A" to the report to the Lord Selkirk-West Kildonan Community Committee for File DAZ 228/2007, dated September 1, 2007.