Agenda - Council - July 21, 2010

Report - Executive Policy Committee - June 30, 2010

Item No. 2 Subdivision and Rezoning - 2165 Henderson Highway (North Kildonan Ward) File DASZ 5/2010

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 30, 2010, the Executive Policy Committee concurred in the recommendation of the East Kildonan-Transcona Community Committee and submits the following to Council:

1. That the plan of subdivision proposed under File DASZ 5/2010 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 5/2010 dated June 5, 2010 with such minor changes as may be required, and for registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 5/2010 dated June 5, 2010, to "C1 Commercial Neighbourhood subject to the following:

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

        i. 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.

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

        iii. 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 - Executive Policy Committee - June 30, 2010

iv. 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;

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.

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 Director of Legal Services and City Solicitor 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 registration of the Plan of Subdivision in the Winnipeg Land Titles Office.

8. That the zoning section of the by-law shall come into force and effect when the plan of subdivision is registered in the Winnipeg Land Titles Office and the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date the by-law is passed.

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.

Report - Executive Policy Committee - June 30, 2010

11. That the Director of Legal Services and City Solicitor be requested to do all thing necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report - Executive Policy Committee - June 30, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 30, 2010, the Executive Policy Committee concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 15, 2010, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Subdivision and Rezoning - 2165 Henderson Highway**
File DASZ 5/2010

For submission to: **Executive Policy Committee**

Prepared by: **Carlos Gameiro, Senior Committee Clerk**
East Kildonan-Transcona Community Committee

Report date: **June 16, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 15, 2010, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

1. That the plan of subdivision proposed under File DASZ 5/2010 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 5/2010 dated June 5, 2010 with such minor changes as may be required, and for registration in the Winnipeg Land Titles Office.

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iv. 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;

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.

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

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7. That the subdivision section of the by-law shall come into force and effect upon registration of the Plan of Subdivision in the Winnipeg Land Titles Office.

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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 Director of Legal Services and City Solicitor be requested to do all thing necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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

1. It is something that we did two years ago.

2. There is no opposition.

PUBLIC HEARING SUMMARY

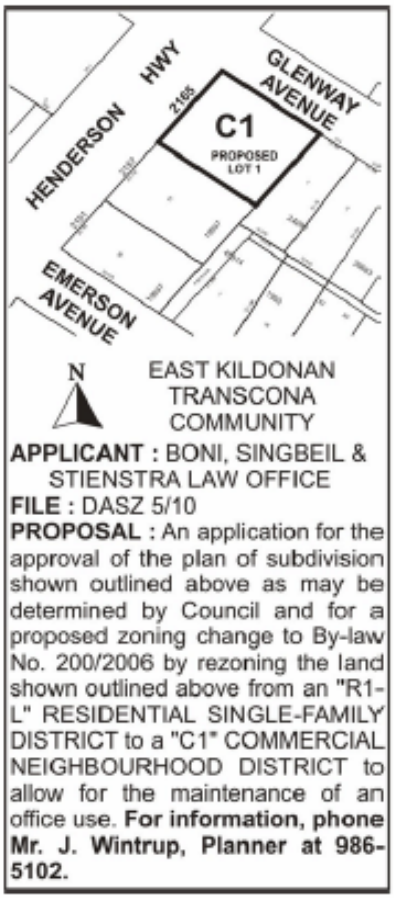
File: DASZ 5/2010

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

Public Hearing: June 15, 2010
The Royal Canadian Legion, Transcona Branch
117 Regent Avenue East

Applicant: Boni, Singbeil and Stienstra Law Office (Darren Singbell)

Subject:



Premises Affected: 2165 Henderson Highway

Exhibits Filed:

1. Application dated April 8, 2010
2. Notification of Public Hearing dated April 14, 2010
3. Manitoba Status of Titles 2217928 and 2217929
4. Letter of authorization dated December 4, 2009, from 5405173 Manitoba Ltd. to Darren Singbeil, Boni, Singbeil and Stienstra Law Office
5. Variance Order DAV 163776/2006D
6. Drawing of subject property
7. Plans (5 pages)
8. Report from the Planning and Land Use Division dated June 5, 2010
9. Inspection Report
10. Audio Recording of representations

REPRESENTATIONS:

In Support:

Robert Harder

In Opposition

Nil

For Information:

Nil

For the City:

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

Exhibit "8" referred to in File DASZ 5/2010

ADMINISTRATIVE REPORT

Title: DASZ 5/10 – 2165 Henderson Hwy.

Issue: For consideration at the Public Hearing for a rezoning to maintain the existing office use and consolidate two lots previously approved under DASZ 49/2006.

Critical Path: East Kildonan - Transcona Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	n/a	n/a	

RECOMMENDATIONS

1. That the plan of subdivision proposed under File DASZ 5/10 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 5/10 dated June 5, 2010 with such minor changes as may be required, and for registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 5/10 dated June 5, 2010, to "C1 Commercial Neighbourhood subject to the following:

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

      i. 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.

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

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iv. 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;

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.

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.

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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 Director of Legal Services be requested to do all thing necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

REASON FOR THE REPORT

- The applicant has applied to rezone and consolidate the land to maintain a one story building for a financial planning company previously approved under DASZ 49/2006.
- DASZ 49/2006 was not followed through to completion by the former applicant.
- Within that time period, a building permit was issued and a commercial building was constructed under the premises that DASZ 49/2006 would be completed prior to final occupancy permit.
- Land ownership subsequently changed in 2007 and the new registered owners need to proceed with this application to ensure compliance with Zoning By-law 200/2006.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, the land-use will comply with Zoning By-law 200/2006 in that the current zoning district for the land does not allow commercial land uses.

HISTORY

January 15, 2007 The East Kildonan-Transcona Community Committee approved DAV 06-163776/D an application for a 'use' variance and to allow two parking stalls with abutting aisle way in the northwest corner of the lot; and recommended approval of DASZ 49/2006.

February 21, 2007 Council approved DASZ 49/2006 an application to Rezone and consolidate two lots for a commercial use to allow the applicant to construct a one story building for a financial planning company.

July 9, 2007, The East Kildonan-Transcona Community Committee concurred in the administrative
recommendation and approved the site plans for 2165 Henderson Highway as submitted for a one storey, 2792 square foot building, with three parking stalls in the front yard and 8 parking stalls in the rear yard along the south side of the lot.

CONSULTATION

In preparing this Report there was consultation with:

N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	John Wintrup
Date:	June 5, 2010
File No.	DASZ 5/10

APPENDIX 'A'

DATE: June 5, 2010
FILE: DASZ 5/10
RELATED FILES: DASZ 49/2006; DAV 06-163776/D
COMMUNITY: East Kildonan – Transcona Community
NEIGHBOURHOOD #: 4.418

SUBJECT: Rezoning to maintain the existing office use and consolidate two lots previously approved under DASZ 49/2006.

LOCATION: 2165 Henderson Hwy

APPLICANT: Boni, Singbeil & Stienstra Law Office (Darren Singbeil)
2151 Henderson Hwy
R2G 1P9

OWNER: 5405173 Manitoba Ltd. (Todd Peters)
2165 Henderson Hwy
R2G 1P9

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant has applied to rezone and consolidate the land to maintain a one story building for a financial planning company previously approved under DASZ 49/2006.
- DASZ 49/2006 was not followed through to completion by the former applicant.
- Within that time period, a building permit was issued and a commercial building was constructed under the premises that DASZ 49/2006 would be completed prior to final occupancy permit.
- Land ownership subsequently changed in 2007 and the new registered owners need to proceed with this application to ensure compliance with Zoning By-law 200/2006.
- The commercial zone is appropriate to allow this commercial use.
- Similar conditions as recommend under DASZ 49/2006 are being recommended including site plan approval by the East Kildonan – Transcona Community Committee.

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-L Residential Single-Family District – Large**.
- 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.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- Maintain the existing one story, 2602 square foot office building with eight (8) parking stalls in the rear yard and two (2) parking stalls in the front yard.

ANALYSIS AND ISSUES

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 (BY-LAW 200/2006)

- **R1-L Residential Single-Family District – Large** minimum lot sizes of 5,500 square feet are required.
    - Side yards of 4 feet are required.
    - Front yard requirements are 15 feet;
    - rear yard requirements are 25 feet.
    - Maximum building height is 35 feet.

- **C1 Commercial Neighbourhood** is intended to accommodate small, compact commercial uses within or surrounded by residential areas that are attractive and compatible in scale and character with surrounding residential uses, to serve the convenience needs of the surrounding neighbourhood.
    - This district is not intended to accommodate businesses sized or designed to serve a trade area more than one-half mile from the business.
    - C1 districts are generally located along local streets or at local/collector intersections.
    - There are no yard requirements.
    - Maximum building height is 39 feet.

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.

LAND DEDICATION

- When a developer rezones and/or subdivides a parcel of land, they are required to put in an application with the City of Winnipeg.
- As a condition of rezoning or subdivision, a developer is required to contribute a portion of the land to be developed to the City for parks purposes.
- The amount of lands is not less than 10%. The developer will provide land or 'cash in lieu' as determined by the Planning, Property and Development Department.
- If dedication is 'cash in lieu' of land, then the developer is required to pay the City its share of the costs of landscaping and services that it would have expended had a dedication of the land been made, which will equal 10 %.
- 'Cash in lieu' of land will be required under this development application.

REASONS FOR RECOMMENDATIONS

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.

Similar conditions as recommend under DASZ 49/2006 are being recommended including site plan approval by the East Kildonan – Transcona Community Committee.

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

Report Prepared by: John Wintrup
PPD File # DASZ 5/10

Schedule “A” for File No. DASZ 5/10, East Kildonan – Transcona Community Committee, dated June 5, 2010.

By–Law No. _____

File No. **DASZ 5/10**

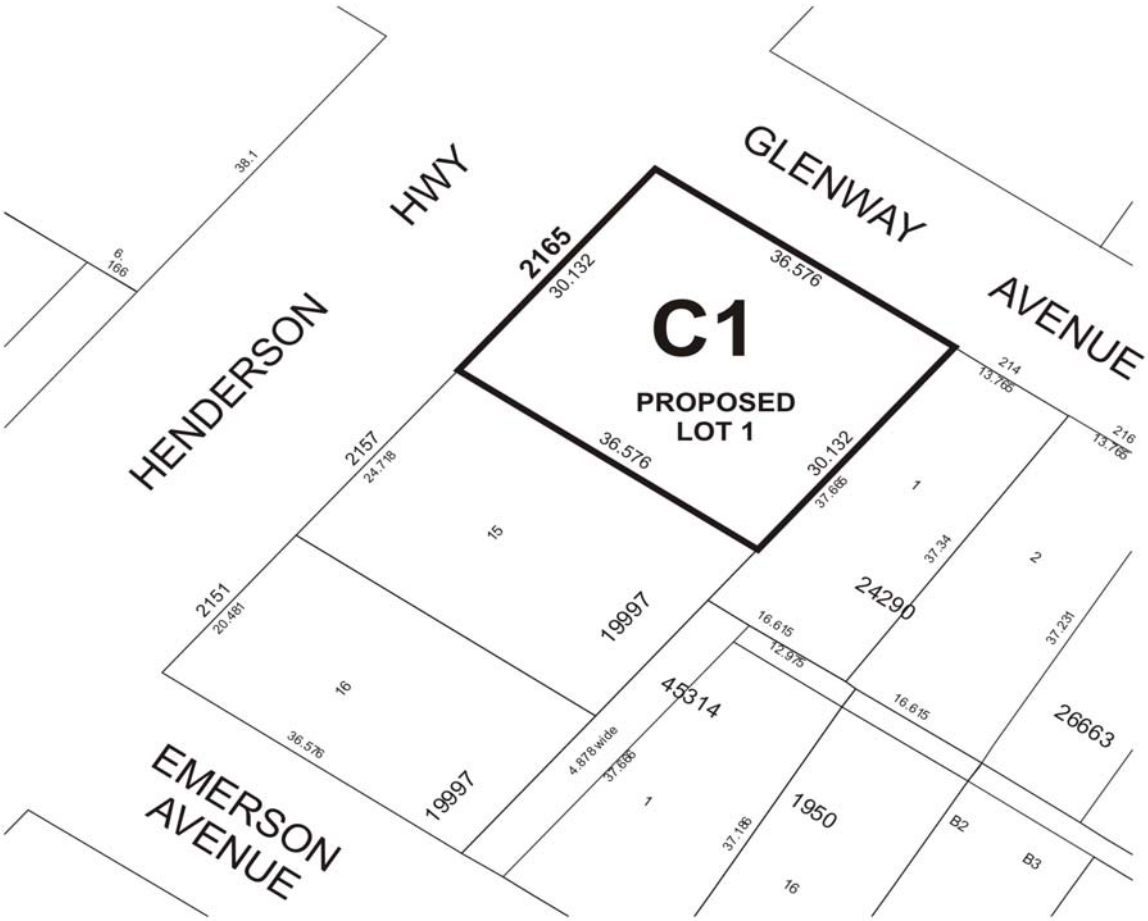
Atlas Sheet No. **S30**

N

EAST KILDONAN TRANSCONA COMMUNITY

Explanation

An application for the approval of the plan of subdivision shown outlined below and for a proposed zoning change to By-law No. 6400/94 by rezoning the land located at 2165 Henderson Hwy from an "R1-L" RESIDENTIAL SINGLE-FAMILY DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to allow for the maintenance of an office use as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____



Figure 1: Air Photo of subject property and Surrounding Context.

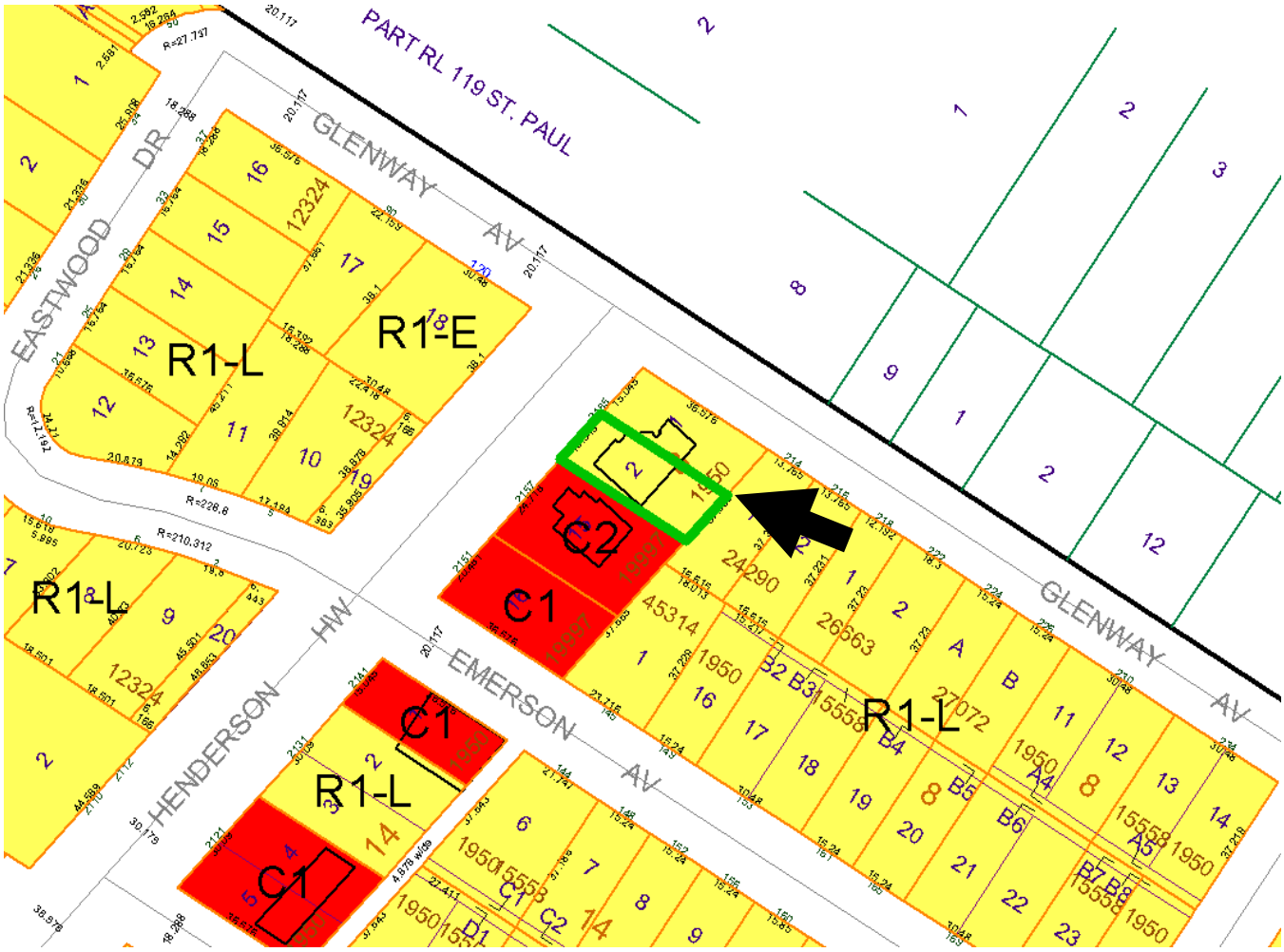


Figure 2: Zoning Map of subject property and Surrounding Context.