Minutes - Executive Policy Committee – June 15, 2011

Minute No. 341
Report - Standing Policy Committee on Property and Development – June 7, 2011

Item No. 6 Subdivision and Rezoning – west of 1424 Regent Avenue West (Transcona Ward)
File DASZ 31/2010

EXECUTIVE POLICE COMMITTEE RECOMMENDATION:

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 plan of subdivision proposed under File DASZ 31/2010 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule “A” for File DASZ 31/2010 dated May 11, 2011 with such minor changes as may be required, and for registration in the Winnipeg Land Titles Office.

2. That the City-owned property shown in broken outline and identified as "Subject City Property" on Misc. Plan 13246 be declared as surplus to the City's needs.

3. That the Director of Planning, Property and Development be authorized to negotiate and approve the sale of the "Subject City Property" as shown in broken outline on Misc. Plan 13246 to the applicant on terms and conditions satisfactory to the Director of Planning, Property and Development and the Director of Legal Services and City Solicitor in order to protect the interests of the City and to achieve the intent of the Executive Policy Committee.

4. That the net proceeds of the sale of the City owned lands be allocated to the Rotary Heritage Park renewal project.

5. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule “A” for File DASZ 31/2010 dated May 11, 2011, to “C3” Commercial Corridor District subject to the following:

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

Report - Standing Policy Committee on Property and Development – June 7, 2011

i. That for the development of any building and/or accessory parking area and/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, fencing, landscaping and signage to the Director of Planning, Property and Development and the East Kildonan-Transcona Community Committee for plan approval 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.

ii. That no building be located within 25 feet of Regent Avenue.

6. That in lieu of the requirement for land dedication, a sum of money, calculated as ten percent (10%) of the increase in market value of the land, be paid to the City for the purchase of land for purposes of the City other than streets.

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

8. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two years 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 the two-year period and Council approves the extension.

9. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

10. 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.

11. 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.

Report - Standing Policy Committee on Property and Development – June 7, 2011

12. That the plan of subdivision shall be approved and signed by the Director of Planning, Property and Development within one year from the date the by-law is passed, failing which 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 the one-year period and Council approves the extension.

13. 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 - Standing Policy Committee on Property and Development – June 7, 2011

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That the recommendations of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On June 7, 2011, 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 May 17, 2011, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service with the following amendment, namely:

- Add the following new Recommendation 4. and renumber the remaining Recommendations accordingly.

  "4. That the net proceeds of the sale of the City owned lands be allocated to the Rotary Heritage Park renewal project,"

and forwarded the matter to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning – west of 1424 Regent Avenue West**
File DASZ 31/2011

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

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

Report date: **May 18, 2011**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 17, 2011, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 31/ 2010 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 31/ 2010 dated May 11, 2011 with such minor changes as may be required, and for registration in the Winnipeg Land Titles Office.

2. That Council declare the City owned property shown in broken outline and identified as "Subject City Property" shown on Misc. Plan 13246 as surplus to the City's needs.

3. That the Director of Planning, Property and Development be authorized to negotiate and approve the sale of the "Subject City Property" as shown in broken outline on Misc. Plan 13246 to the applicant on terms and conditions satisfactory to the Director of Planning, Property and Development and the Director of Legal Services and City Solicitor in order to protect the interests of the City and to achieve the intent of the Executive Policy Committee.

4. That the net proceeds of the sale of the City owned lands be allocated to the Rotary Heritage Park renewal project.

5. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 31/ 2010 dated May 11, 2011, to C3 Commercial Corridor District subject to the following:

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

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ii. That no building be located within 25 feet of Regent Avenue.

6. That in lieu of the requirement for land dedication, a sum of money, calculated as ten percent (10%) of the increase in market value of the land, be paid to the City for the purchase of land for purposes of the City other than streets.

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

8. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two years 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 the two-year period and Council approves the extension.

9. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

10. 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.

11. 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.

12. That the plan of subdivision shall be approved and signed by the Director of Planning, Property and Development within one year from the date the by-law is passed, failing which 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 the one-year period and Council approves the extension.

13. 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.

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. The East Kildonan-Transcona Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated May 11, 2011.

2. This land was set aside for the East – West Transcona Corridor, it did not happen and the lands originally set aside for this project have been sold and developed. The City has reaped a windfall from these land sales. The amount of money that is being asked to stay in the community from the sale of this land is a small dividend in comparison.

PUBLIC HEARING SUMMARY

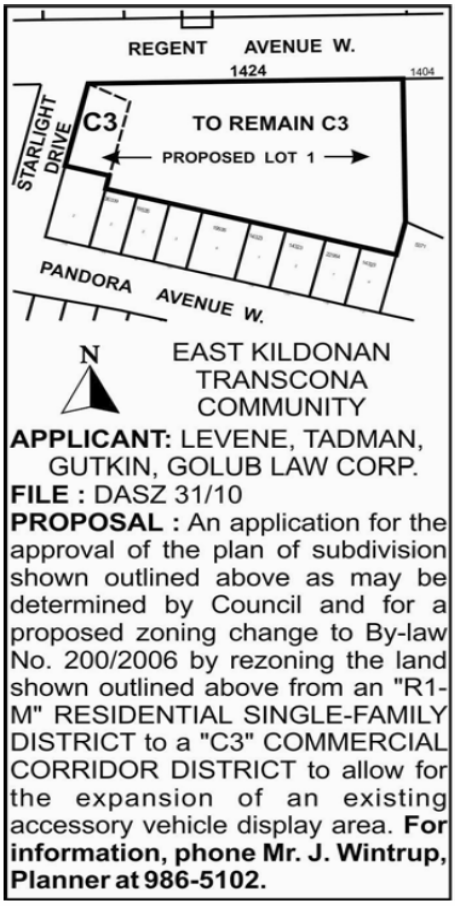
File: DASZ 31/2010 [c/r DAV 110636/2011D]

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

Public Hearing: May 17, 2011
Bronx Park Community Centre
720 Henderson Highway

Applicant: Levene, Tadman, Gutkin, Golub Law Corporation
(Mara Koven)

Subject:



Premises Affected: west of 1424 Regent Avenue West

Exhibits Filed:

1. Application dated March 17, 2011
2. Notification of Public Hearing dated March 29, 2011
3. Manitoba Status of Title 2471838
   Title Search 1205403
4. Letter of authorization dated September 26, 2010, from 4089074 Manitoba Ltd. to Levene, Tadman, Gutkin, Golub Law Corporation
5. Site Plan
6. Photographs of the subject property
7. Report from the Planning and Land Use Division dated May 11, 2011
8. Inspection Report
9. Audio Recording of representations

REPRESENTATIONS:

In Support:

David Levene, Levene, Tadman, Gutkin, Golub Law Corporation
Larry Vickar

In Opposition

Nil

For Information:

Bill and Rose Jansen

For the City:

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

Exhibit "7" referred to in File DASZ 31/2010 [c/r DAV 110636/2011D]

ADMINISTRATIVE REPORT

Title: DASZ 31/2010 – West of 1424 Regent Avenue West

Issue: For consideration at the Public Hearing for consolidation and rezoning to allow for expansion of the adjacent commercial land-use.

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			

RECOMMENDATIONS

1. That the plan of subdivision proposed under File DASZ 31/ 2010 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 31/ 2010 dated May 11, 2011 with such minor changes as may be required, and for registration in the Winnipeg Land Titles Office.

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3. That the Director of Planning, Property and Development be authorized to negotiate and approve the sale of the "Subject City Property" as shown in broken outline on Misc. Plan 13246 to the applicant on terms and conditions satisfactory to the Director of Planning, Property and Development and the City Solicitor/Manager of Legal Services in order to protect the interests of the City and to achieve the intent of the Executive Policy Committee.

4. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 31/ 2010 dated May 11, 2011, to C3 Commercial Corridor District subject to the following:

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

i. That for the development of any building and/or accessory parking area and/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, fencing, landscaping and signage to the Director of Planning, Property and Development and the East Kildonan – Transcona Community Committee for plan approval 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.

ii. That no building be located within 25 feet of Regent Avenue.

5. That in lieu of the requirement for land dedication, a sum of money, calculated as ten percent (10%) of the increase in market value of the land, be paid to the City for the purchase of land for purposes of the City other than streets.

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

7. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two years 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 the two-year period and Council approves the extension.

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12. 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 City of Winnipeg lands are the former lands for the *Eastern Transportation Thoroughfare* that was declared obsolete in 1998.
- The applicant is proposing to expand their existing parking area with the addition of 34 parking stalls onto the City Lands after purchasing them.
- Variances to permit no front yard instead of 25 feet (7.62 metres), no west side yard and insufficient landscaping is being requested.
- Site plan approval is recommended to ensure adequate fencing and landscaping to screen the site from the adjacent single family dwellings.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, this will facilitate the sale of the City of Winnipeg lands to the adjacent commercial land owner who will expand their parking.

HISTORY

In 1965 and 1967, the former *Metro Corporation For the Eastern Thoroughfare* acquired the lands for a future transportation roadway immediately east of Lagimodiere Blvd, south of Regent Avenue and north of the CNR Railway R.O.W. Plan 7395. The lands were set aside within the former Plan Winnipeg for the future *Eastern Transportation Thoroughfare*: a major, 4 lane roadway envisioned in 1968 that would be constructed between 1982-1992. The road would connect McDermot Avenue in Downtown Winnipeg to Regent Ave West at Starlight Drive in Transcona.

In 1998, *Transplan 2010 - Moving Toward Solutions* reviewed the Eastern Transportation Thoroughfare and contemplated a corridor for transit vehicles only that would cross Rougeau and stay parallel to the CNR Pine Falls ROW. The majority of the lands for the Eastern Transportation Thoroughfare were declared surplus to the City needs since the four lane roadway was no longer envisioned.

The lands east of Lagimodiere, west of Rougeau and north of the CNR Railway R.O.W. Plan 7395 were subsequently sold to the developer of Crossroads Station for a subdivision and rezoning (DASZ 11/1999). The remaining Eastern Transportation Thoroughfare lands east of Rougeau and west of Pandora Avenue have been subject to a subdivision/rezoning for residential homes by Genstar (DASZ 17/05); and sold to Frontier Toyota (DASZ 24/01). The lands at the southwest corner of Starlight and Regent, north of Pandora Avenue were consolidated and rezoned in February, 2006 for the construction of Fire Station 21 (DASZ 6/06).

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:	*May 11, 2011*
File No.	*DASZ 31/10*

List of Schedules and Attachments

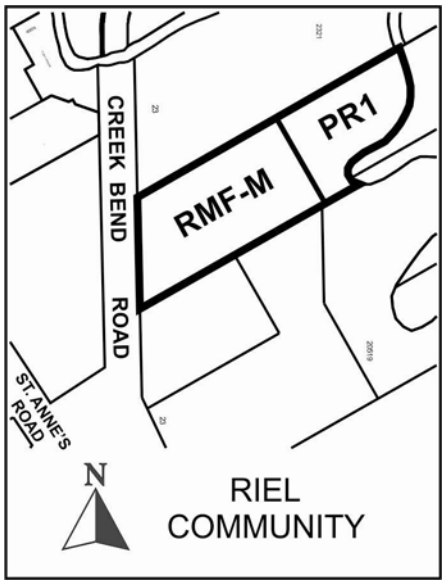
1. Appendix A – Planning Discussion
2. Schedule “A” for File No. DASZ 31/ 2010
3. Schedule “B” - MISC. Plan 13246

APPENDIX 'A'

DATE: May 11, 2011
FILE: DASZ 31/ 2010
RELATED FILES: DASZ 6/06; DAV 11-110636/D
COMMUNITY: East Kildonan-Transcona Community
NEIGHBOURHOOD #: 4.433

SUBJECT:

LOCATION: 1424 Regent AVE W
LEGAL DESCRIPTION: LOT 1 PLAN 36339 68 ST B OTM *



APPLICANT: Levene Tadman Gutkin Golub (Mara Koven)
330 ST MARY AVE FLOOR 7
WINNIPEG MB R3C 3Z5

OWNER: 4089074 MANITOBA LTD.
682 PARK BLVD S
WINNIPEG MB R3P 0X1

RECOMMENDATION: Approval with Conditions

REPORT SUMMARY

- The City of Winnipeg lands are the former lands for the *Eastern Transportation Thoroughfare* that was declared obsolete in 1998.
- The applicant is proposing to expand their existing parking area with the addition of 34 parking stalls onto the City Lands after purchasing them.
- Variances to permit no front yard instead of 25 feet (7.62 metres), no west side yard and insufficient landscaping is being requested.

- Site plan approval is recommended to ensure adequate fencing and landscaping to screen the site from the adjacent single family dwellings.

SITE DESCRIPTION

- The subject property is 11,009 sq. ft located on the north east corner of Regent Avenue and Starlight Dr in the Regent neighbourhood of the Transcona Ward.
- The site is zoned "R1-M Residential Single-Family District – Medium and has no access to Regent Avenue or Pandora Avenue. Adjacent properties to the south include a residential dwelling zoned "R1-M" and to the east, Vickar Nissan zoned C3.
- Surrounding lands include single family dwellings zoned "R1-M" to the south across Pandora Avenue and east across Starlight Dr is Fire Station 21 zoned C3.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to expand their existing parking area with the addition of 34 parking stalls.
- A ten (10) foot landscaped strip would be provided along the south property against the single family dwelling at 1175 Pandora Avenue.

ANALYSIS AND ISSUES

ZONING BY-LAW 200/06

- **R1-M Residential Single-Family District – Medium** minimum lot sizes of 3,500 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.

- **C3 Commercial Corridor District** is intended primarily for uses that provide commercial goods and services to residents of the community in areas that are dependent on automobile access and exposed to heavy automobile traffic.
    - These commercial uses are subject to frequent view by the public and visitors to Winnipeg, and they should provide an attractive appearance with landscaping, sufficient parking, and controlled traffic movement.
    - C3 districts are generally located along portions of arterial streets where lot depths are 200 feet or greater, or at arterial/arterial intersections.
    - There is a minimum rear yard of 25 feet.
    - The maximum building height is 49 feet.

- Variances may be appealed to the Appeals Committee for a new public hearing, whereas the recommendation by Community Committee for a rezoning proceeds to Council for decision.
- Variances to permit no front yard instead of 25 feet (7.62 metres), no west side yard and insufficient landscaping is being requested.

NEIGHBOURHOOD COMPATIBILITY

- The subject property is surrounded by a mix of commercial land uses, including car dealerships, a casino and a fire hall all zoned C3. To the south along Pandora Avenue are single family dwellings zoned "R1-M" Residential Single Family – Medium that back

against all the commercial lands uses along Regent. As such, the proposed C3 zoning for this area is compatible with the neighbourhood.

- Over the past ten years, a number of applications have been approved for commercial development of the old *Eastern Transportation Thoroughfare* (see DASZ 11/1999, and DASZ 24/01).
- Only four (4) variances were granted during the 1980's (prior to the Regent expansion) for reduced front yards, and these were for parking and vehicle display areas.
  - Three buildings today are adjacent to Regent Avenue with front yards less than the required 25 feet. These buildings have non-conforming rights due to the expansion of Regent when the City expropriated properties and reduced the front yards.
  - This would include 801 Regent, the 7/11 store and gas kiosk which were granted rights for a reduced yard for the existing free standing sign and gas kiosk in the required front yard.
  - DAV 915/86 for 810 Regent Avenue permitted vehicle displays in the required front yard of the subject property on condition a two (2) foot planting strip.
  - DAV 994/84 was granted for 810 Regent Avenue to a permit a front yard of 3.5 feet instead of 15 feet for an illuminated free standing sign.
  - This order was repealed by Zoning By-law 4440/1986, the predecessor of the current Zoning By-law, because no conditions were attached.

- A higher standard for yards along Regent Avenue has been established since 1984 including a front yard of 25 feet instead of 15 feet.
- There have been ten (10) variances granted for reduced front yards of 25 feet or less since 1990 when the City of Winnipeg acquired land (18 feet on the north side and 14 feet on the south side of Regent) for the expansion of Regent Avenue.
  - These variances have been for items such as parking and vehicle display areas that have reduced the yards on condition that landscape features such as planters, flowers, shrubs, etc be established.
  - 868 Regent (Esso Gas Station) was granted no front yard for a free standing sign in 1992 but the building and sign have since been demolished.
  - Vickar Mitsubishi at 950 Regent was recently granted a reduced front yard for vehicle display providing landscape features such as planting beds be established.
  - 826 Regent (Canad Inns) building fron yard is 46 feet and has a 4 foot front yard for landscaping as granted under DAV 311/92.
  - 810 Regent Ave West was granted a reduced front yard for free standing signage subject to providing landscaping features such as planting beds.

- There is a difference between a 'front yard' requirement and a 'setback' for a building:
    - Front Yard - Does not allow any open parking, free standing signs and/or other projections in the required front yard.
    - Setback - Establishes a separation space for the building. Permits signs, open parking, etc to be located within this separation distance, unless there is a front yard requirement in the zoning by-law

SITE DESIGN ISSUES

- The original draft site plans submitted by the applicant do not provide details such as vegetation type.
- Also, the submitted site plans do not meet the expectations of the Planning and Land Use Division for landscaping and screening, thus the Division recommends plan approval for this application.

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.

RECOMMENDATION

The Planning and Land Use Division recommends **approval** for the following reasons:

- The proposed development and rezoning conforms with the surrounding neighbourhood.
- The proposed development and rezoning is consistent with the commercial developments along Regent Avenue.
- The Division is recommending that a setback of 25 feet be established along Regent Avenue to ensure no building is constructed along this right-of-way, which is consistent with other approvals granted to development along Regent Avenue.

This Report Submitted by: John Wintrup
Planning, Property and Development Department
Planning and Land Use Division
Report Prepared by:
PPD File # DASZ 31/10

Schedule “A” for File No. DASZ 31/10, East Kildonan – Transcona Community Committee, dated May 11, 2011.

By-Law No. _____

File No. **DASZ 31/10**

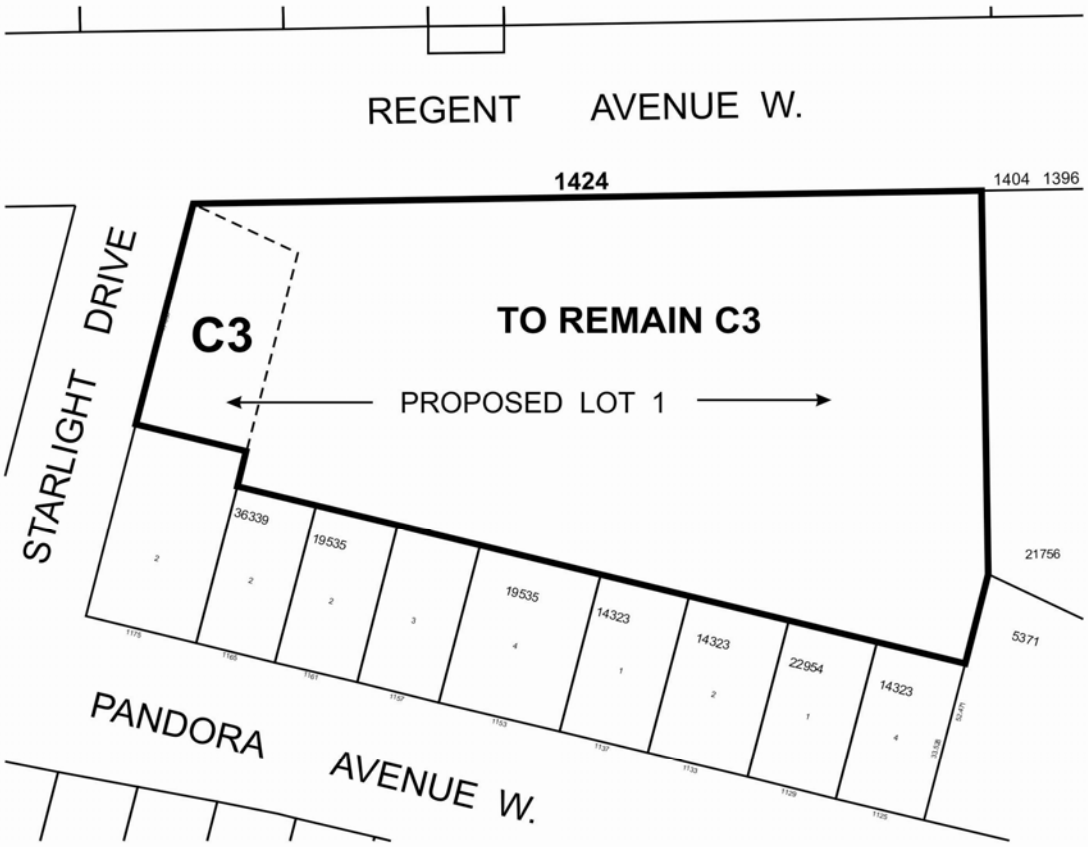
Atlas Sheet No. **Z32**

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. 200/2006 by rezoning the land located at 1424 Regent Avenue West & City owned land adjacent to the west from an "R1-M" RESIDENTIAL SINGLE-FAMILY DISTRICT to a "C3" COMMERCIAL CORRIDOR DISTRICT to allow for the expansion of an existing accessory vehicle display area as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

SCHEDULE “B” – MISC. Plan 13246

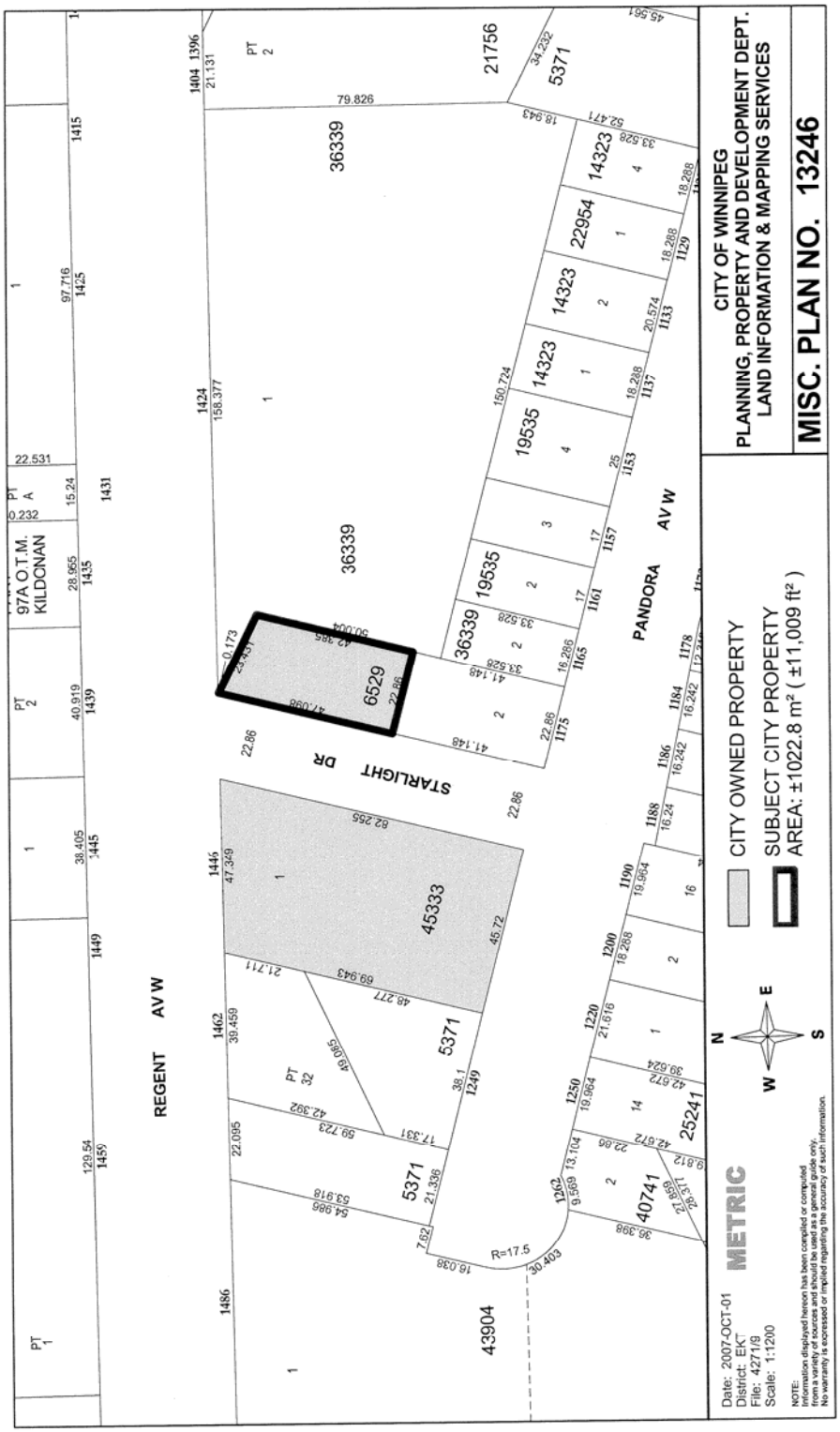




Figure 1: Existing Land-Uses for subject property and Surrounding Area.

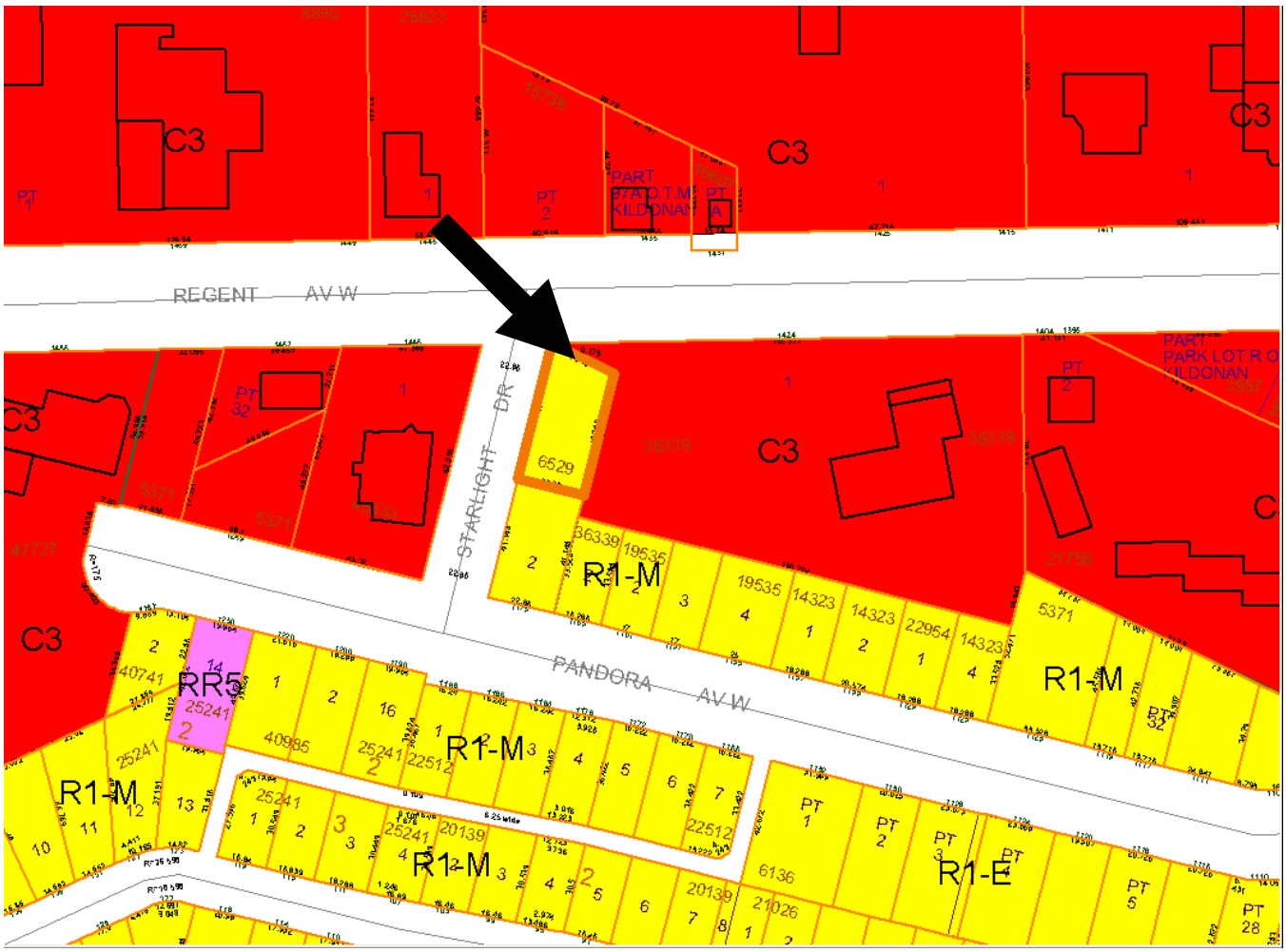


Figure 2: Existing Zoning for subject property and Surrounding Area.