Agenda - Council – July 20, 2011

Report - Standing Policy Committee on Property and Development – July 15, 2011

Item No. 10 Rezoning – 1, 3, 5, 21 and 25 Lowson Crescent (Charleswood - Tuxedo Ward) File DAZ 209/2011 [c/r DAV 128224/2011D]

STANDING COMMITTEE RECOMMENDATION:

On July 15, 2011, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submits the following to Council:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 209/2011, dated July 5, 2011 to an "M1" Manufacturing Light District 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 for the lands zoned "M1" Manufacturing Light District "to include the following conditions:

        i. That for the development of any building, accessory parking area or signage in the Planned Area the Developer shall submit plans showing the location and design of the buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping, lighting and signage, to the Director of Planning, Property and Development and the Assiniboia 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. The following uses, as defined in the Winnipeg Zoning By-law No. 200/2006, shall not be permitted:
            1. Towing and storage facility;
            2. X-Rated Store;
            3. Pawnshop.

        iii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire Planned Area, except that a mobile sign may be permitted on the Planned Area for a period of thirty (30) days upon issuance of a new occupancy permit.

Report - Standing Policy Committee on Property and Development – July 15, 2011

2. 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.

3. 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.

4. That the zoning section of the by-law shall come into force and effect when 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.

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

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

Agenda - Council – July 20, 2011

Report - Standing Policy Committee on Property and Development – July 15, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 15, 2011, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 15, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 12, 2011, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendment, namely:

- Amend Recommendation 1.A.ii, by inserting the words “as defined in the Winnipeg Zoning By-law No. 200/2006” after “The following uses,”

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

RE: **Rezoning – 1, 3, 5, 21 and 25 Lowson Crescent**
File DAZ 209/2011 [c/r DAV 128224/2011D]

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

Prepared by: **Visa Hutter, Senior Committee Clerk**
Assiniboia Community Committee

Report date: **July 12, 2011**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 12, 2011, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 209/2011, dated July 5, 2011 to an "M1" Manufacturing Light District 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 for the lands zoned "M1" Manufacturing Light District to include the following conditions:

        i. That for the development of any building, accessory parking area or signage in the Planned Area the Developer shall submit plans showing the location and design of the buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping, lighting and signage, to the Director of Planning, Property and Development and the Assiniboia 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. The following uses, ***as defined in the Winnipeg Zoning By-law No. 200/2006*** shall not be permitted:

            1. Towing and storage facility;
            2. X-Rated Store;
            3. Pawnshop.

        iii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire Planned Area, except that a mobile sign may be permitted on the Planned Area for a period of thirty (30) days upon issuance of a new occupancy permit.

2. 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.

3. 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.

4. That the zoning section of the by-law shall come into force and effect when 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.

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

6. That the Director of Legal Services and City Solicitor 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 Assiniboia Community Committee provided the following supporting reason(s) for its recommendation:

1. The Assiniboia Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated July 5, 2011.

PUBLIC HEARING SUMMARY

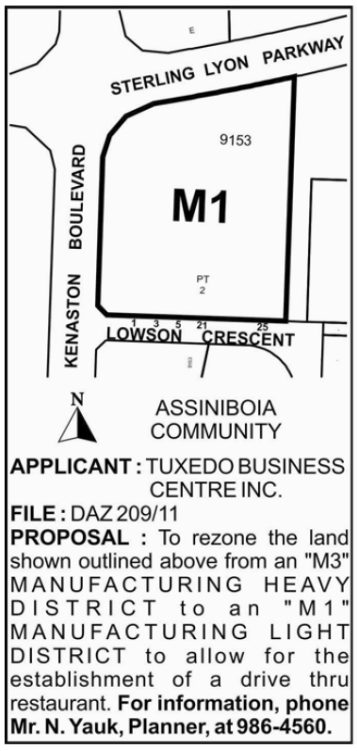
File: DAZ 209/2011

Before: Assiniboia Community Committee
Councillor Fielding, Chairperson
Councillor Havixbeck
Councillor Nordman

Public Hearing: July 12, 2011
West Committee Room
Council Building, 510 Main Street

Applicant: Tuxedo Business Centre Inc. (Michael Falk)

Subject:



Premises Affected: 1, 3, 5, 21 and 25 Lowson Crescent

Exhibits Filed:
1. Application dated May 11, 2011
2. Notification of Public Hearing dated May 19, 2011
3. Manitoba Status of Title 1667240
4. Letter of authorization dated April 14, 2011 from Tuxedo Business Centre Inc.

5. Surveyor's Building Location Certificate and sketch for 3 Lowson Crescent dated November 25, 2010
6. Surveyor's Building Location Certificate and sketch for 21 Lowson Crescent dated February 5, 2009
7. Site Plan, Sheets (2)
8. Report from the Planning and Land Use Division dated July 5, 2011
9. Inspection Report
10. Amendments and Recommendations to the Planner's Report as submitted by Michael Falk at the public hearing
11. Audio Recording of representations of public hearing held on July 12, 2011

REPRESENTATIONS:

In Support:

Michael Falk, Terracon Development Ltd.
Chris Thorne

In Opposition:

Nil

For the City:

Noah Yauk, Senior Planner, Planning, Property and Development Department

Exhibit "7" referred to in File DAZ 209/2011

ADMINISTRATIVE REPORT

Title: DAZ 209/2011 – 1,3,5,21 & 25 Lowson Crescent

Issue: For consideration at the public hearing for a Rezoning for DAZ 209/2011 – 1,3,5,21 & 25 Lowson Crescent

Critical Path: Assiniboia Community Committee as per the Development Procedures By-law and *The City of Winnipeg Charter.*

AUTHORIZATION

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

RECOMMENDATIONS

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 209/2011, dated July 5, 2011 to an "M1" Manufacturing Light District 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 for the lands zoned "M1" Manufacturing Light District "to include the following conditions:

        i. That for the development of any building, accessory parking area or signage in the Planned Area the Developer shall submit plans showing the location and design of the buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping, lighting and signage, to the Director of Planning, Property and Development and the Assiniboia 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. The following uses shall not be permitted:
            1. Towing and storage facility;
            2. X-Rated Store;
            3. Pawnshop.

        iii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire Planned Area, except that a mobile sign may be

permitted on the Planned Area for a period of thirty (30) days upon issuance of a new occupancy permit.

2. 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.

3. 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.

4. That the zoning section of the by-law shall come into force and effect when 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.

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

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

REASON FOR THE REPORT

- The applicant seeks approval to rezone the subject property to accommodate retail development. The property's current does not allow for retail sales.
- The "M1" zoning district accommodates retail sales to a maximum of 40,000 sq. ft per unit. It is noted that the applicant is also requesting variances on this 9 acre site to provide a drive-thru lane within the required front yard as well as a zero yard to a proposed surface parking area along Kenaston Boulevard. These associated variances are the subject of 11-128224D.
- The Developer of the former M3 Heavy Industrial lands to the west (IKEA / Seasons of Tuxedo) as part of their rezoning is required to finance and construct a 3.5-m-wide asphalt pathway on the west side of Kenaston Boulevard, along the Planned Area to the satisfaction of the Director of Public Works. And is planting 73 trees and 106 shrubs abutting 325 metres of Kenaston Blvd; and 39 trees abutting Sterling Parkway, as approved by the Director of Planning, Property and Development.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, permits may be issued without Site Plan approval or other similar conditions.

HISTORY

Seasons of Tuxedo - IKEA
On March 18, 2009 a Public Hearing at the Executive Policy Committee was held to consider a Plan Winnipeg amendment (By-law 2/2009), an application for Subdivision and Rezoning (DASZ 37/2008), variances for free standing signage height and surface area; bicycle parking stalls; and establishment of lots that do not abut upon a public street (DAV 08-157053D); and a Street Closing (DAC 1/2009) for the lands at the SW & NW quadrants of Sterling Lyon and Kenaston.

As a condition of approval for DASZ 37/2008, Site Plan approval is required at the Assiniboia Community Committee:

> *That for the development of any building, accessory parking area or signage in the Planned Area (excluding Lot 1, Block 1), the Developer shall submit plans showing the location and design of the buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping, lighting and signage, to the Director of Planning, Property and Development 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;*
>
> *The Developer shall finance and construct a 3.5-m-wide asphalt pathway on the west side of Kenaston Boulevard, along the Planned Area to the satisfaction of the Director of Public Works.*

On March 18, 2009 the Public Service approved site and building plans for the IKEA (lot 1) that has 73 trees and 106 shrubs abutting Kenaston Blvd; and 39 trees abutting Sterling Parkway.

In 2010, the City of Winnipeg negotiated a land acquisition with the property owner for part of their lands fronting Kenaston BV required to accommodate the Kenaston BV widening required for the redevelopment of the Tuxedo Yards (IKEA).

CONSULTATION

In preparing this Report there was consultation with:
N/A

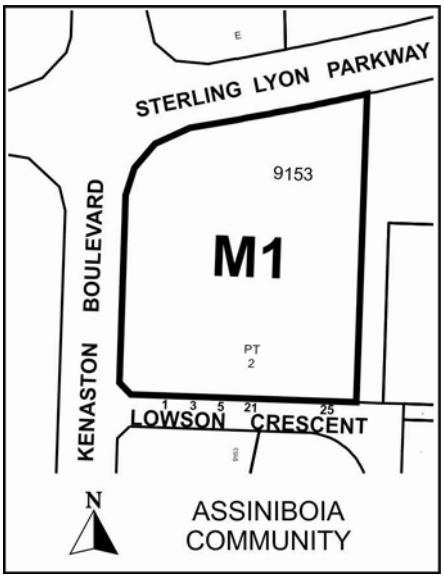
SUBMITTED BY

Department	*Planning, Property and Development*
Division	*Planning and Land Use*
Prepared by	*John Wintrup*
Date:	*July 5, 2011*
File No.	DAZ 209/2011

APPENDIX 'A'
DATE:
FILE: DAZ 209/2011
RELATED FILES: DAV 11-128224/D
COMMUNITY: Assiniboia Community Committee
NEIGHBOURHOOD #: 2.668

SUBJECT: To rezone the subject land from an "M3" Manufacturing Heavy District to an "M1" Manufacturing Light District

LOCATION: 1,3,5,21,25 Lowson Crescent
LEGAL DESCRIPTION: Lot 2, Plan 9153 EXC PL 33696 & 37481



APPLICANT: Tuxedo Business Centre Inc. (Michael Falk)
1 Terracon Place
WINNIPEG MB R2J 4B3

OWNER: Tuxedo Business Centre Inc.

RECOMMENDATION: Approval

SITE DESCRIPTION
The subject property, which is currently zoned "M3" Manufacturing Heavy District, is located at the southeast corner of Kenaston and Sterling Lyon with access from Lowson Crescent, in the Tuxedo-Industrial neighbourhood of the Charleswood-Tuxedo ward.

North: Sterling Lyon Parkway, then vacant lands zoned "M2" Industrial District
South: Lowson Crescent then industrial uses zoned "M2" Industrial District
East: Industrial uses zoned "M2" Industrial District
West: Kenaston Boulevard**,** then the proposed IKEA and Seasons of Tuxedo site transitioning to a "C4" Commercial Regional District

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant seeks approval to rezone the subject property to accommodate retail development. The property's current does not allow for retail sales. The "M1" zoning district accommodates retail sales to a maximum of 40,000 sq. ft per unit. It is noted that the applicant is also requesting variances on this 9 acre site to provide a drive-thru lane within the required front yard as well as a zero yard to a proposed surface parking area along Kenaston Boulevard. These associated variances are the subject of 11-128224D.

The proposed land uses include a fast food restaurant and a commercial strip mall. The concept of the commercial strip mall is a design centre intended to house tenants that specialize in home design products and services related to home improvement (fire places, kitchen/bathroom, etc.). The applicant has indicated that the subject development will not contain any free-standing signage. Instead signage will be limited to building fascia signs with the possible inclusion of an attractive monument sign in the future.

ANALYSIS AND ISSUES

A. Context

The subject property is located in an industrial development where access to all the properties is by way of an industrial frontage road (Lowson Crescent) which acts as a bay connecting to Kenaston Boulevard at the north and to the south via Rothwell Road. The types of land uses currently located within this industrial area are a mixture of "M2" and "M3" land uses. These consist prominently of manufacturing, storage and warehousing uses. There has been at least one rezoning application on Lowson Crescent over the last few years going from an "M3" to an "M2" district. Currently none of the properties on Lowson Crescent are "M1" and there have been no applications for "M1" uses.

While the development on Lowson Crescent appears to be a functioning industrial area, it is noted that land uses around it are changing drastically. Most important is the upcoming developments of IKEA and the Seasons of Tuxedo located across Kenaston to the east, which has been approved to accommodate a combined total of approximately 1.5 million square feet of retail sales.

B. Zoning By-Law 200/2006

The subject site is zoned "M3". The intent of the "M3" **Manufacturing Heavy District:**
is intended to provide for light or heavy industrial development, including heavy manufacturing, storage, major freight terminals, waste and salvage, resource extraction, processing, transportation, major utilities, and other related uses, particularly those that require very large buildings, frequent heavy truck traffic for supplies or shipments, or that may require substantial mitigation to avoid sound, noise, and odour impacts to neighbouring properties. New M3 zone districts should not be established within 300 feet of an existing residential zone district.

The proposed zoning district is "M1". The intent of the "M1" **Manufacturing Light District:**
is intended to provide for light manufacturing, processing, service, storage, wholesale, and distribution operations with all operations contained within an enclosed building with some limited outside storage.

This zoning category also enables several retail, and private motor vehicle related land-uses including drinking establishments, restaurants, offices, hotels, and day cares.

C. Policies

i. Plan Winnipeg 2020

The subject property is designated as “Industrial Policy” under *Plan Winnipeg*. This designation accommodates a variety of industrial uses.

The plan states that New Industrial areas designated as Industrial Policy, the city can be accommodated by:

Allowing the possible introduction of commercial uses in industrial areas to act as a buffer between the industrial uses and adjacent uses to service the needs of the local industrial population…” (3B-06 iii)

The Plan remains silent however, on the introduction of commercial uses in existing industrial areas. It can be argued, therefore, that the proposed commercial can act as a buffer between the industrial uses along Lowson Crescent and the adjacent land uses proposed to the west of the site across Kenaston.

ii. OurWinnipeg (Complete Communities Direction Strategy)

All lands fronting the east side of Kenaston between Wilkes Avenue and the rail tracks just south of Rothwell Road are designated as General Manufacturing within the Employment Lands designation of the Direction Strategy. Within the General Manufacturing designation, the following uses are accommodated:

- Light to general industrial
- Manufacturing
- Office
- Associated and supportive retail
- Supportive personal service
- Warehouse
- Limited outdoor storage

While the Complete Communities Direction Strategy does accommodate “associated and supportive retail” it is noted that the proposed commercial land uses are the only uses contemplated on the site at this time. It can be argued however, that the proposed commercial uses are associated and supportive in the context of the larger industrial area. Given that the site has exposure on Kenaston BV and IKEA will be located across the road justifies the proposed land use as a transition to the industrial uses along Lowson Crescent. Having said this, caution should be exercised to ensure a precedent will not be set whereby other “M2” and “M3” properties within existing industrial areas seek to rezone to an “M1” zoning district strictly for the purpose of introducing commercial uses such as large format retail. This could potentially promote land use conflicts between retail uses and industrial uses and the traffic associated with each. This could lead to the degradation of available industrial lands set aside for general manufacturing uses and conversely provide competition for existing commercial space as an imperfect substitute to readily available commercially zoned land.

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% as per Council Policy and the City of Winnipeg Charter.
- The developer will provide land or 'cash in lieu' as determined by the Planning, Property and Development Department.

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

- The proposed land uses are compatible with neighbouring development and provide a transition between the industrial land uses on Lowson Crescent and the large format retail uses proposed at the area of commercial concentration west of Kenaston BV.
- The rezoning from M3 Heavy Industrial to M1 is considered a 'down zoning' as the allowable industrial uses will be less noxious.
- The Developer of the former M3 Heavy Industrial lands to the west (IKEA / Seasons of Tuxedo) as part of their rezoning is required to finance and construct a 3.5-m-wide asphalt pathway on the west side of Kenaston Boulevard, along the Planned Area to the satisfaction of the Director of Public Works. And is planting 73 trees and 106 shrubs abutting 325 metres of Kenaston Blvd; and 39 trees abutting Sterling Parkway as approved by the Director of Planning, Property and Development.
- The Division as matter of practice, always requests plan approval on behalf of the Community Committee for nearly all public hearing items that go to a Community Committee.
- The Division is recommending that three land-uses be prohibited – Towing and storage facility, pawnshop and x-rated store as these land-uses do not fit in with the growing redevelopment of the area. This will still allow several land-uses ranging from restaurants and hotels to mini-warehousing and light manufacturing to occur on the land.

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

Report Prepared by: John Wintrup
PPD File # DAZ 209/2011

Schedule “A” for File No. DAZ 209/2011, Assiniboia Community Committee, dated July 5, 2011

By-Law No. _____

File No. **DAZ 209/11**

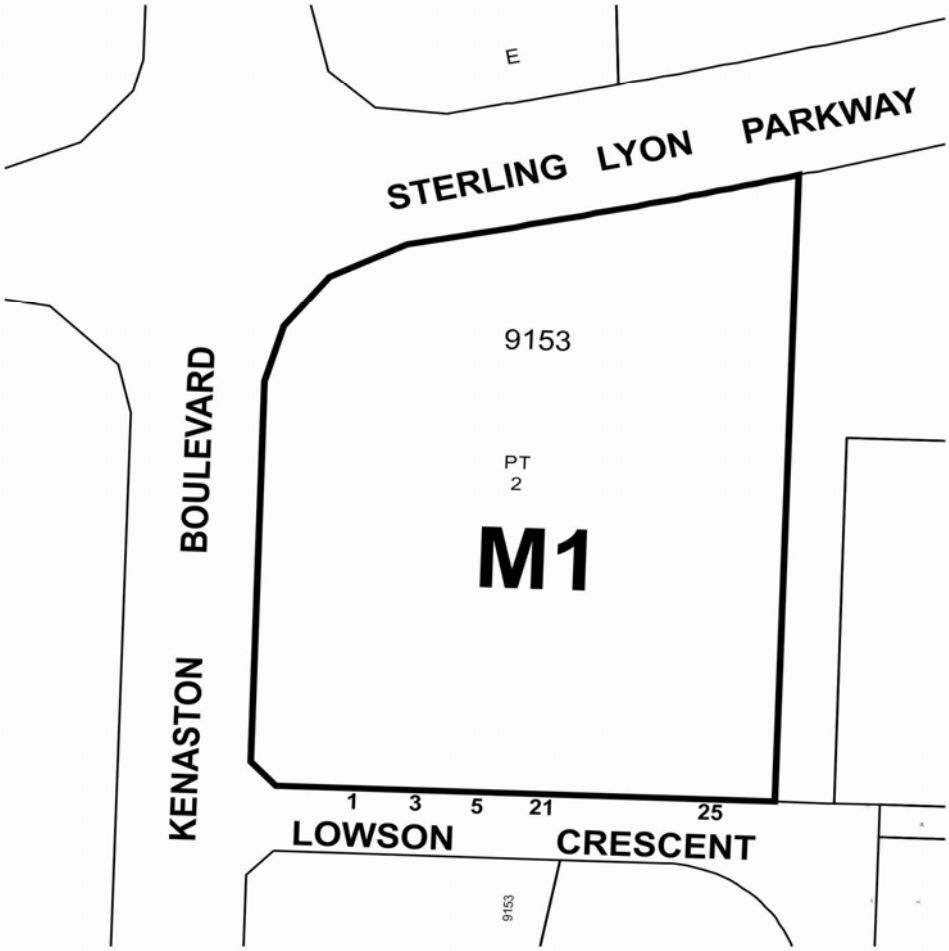
Atlas Sheet No.

N

AF20 ASSINIBOIA COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 1, 3, 5, 21 & 25 Lowson Crescent from an "M3" MANUFACTURING HEAVY DISTRICT to an "M1" MANUFACTURING LIGHT DISTRICT to allow for the establishment of a drive thru restaurant as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____



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