Agenda – Council – January 25, 2012

Report – Executive Policy Committee – January 18, 2012

Item No. 7 Subdivision and Rezoning – 50 Willow Avenue (Charleswood - Tuxedo Ward) File DASZ 40/2011

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Assiniboia Community Committee and recommends to Council:

1. That the plan of subdivision proposed under File DASZ 40/2011 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 40/2011 dated December 29, 2011 with such minor changes as may be required, and 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 40/2011 dated December 29, 2011 to C2 Commercial Community 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 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 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. That there shall be no advertising signs, mobile signs, poster signs and A-Board signs on the entire site.

iii. That the following uses shall not be permitted on the land:

a. Automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts
b. Automobile, including motorcycle: supplies/parts, sales
c. Beer: sales
d. Bingo Parlour
e. Bowling Alley
f. Contractors' Establishment
g. Exterminator
h. Farm supplies: sales
i. Machinery/heavy equipment supplies and parts: sales, installation, service
j. Mobile Home Park
k. Motors or machines, recreational or utility, including power toboggans, outboard motors, lawn mowers: rental, sale, service
l. Pawnshop
m. Tattoo Parlour
n. Terminal for haulage, motor freight station, excluding an intermodal terminal
o. Terminal for courier/delivery/express service, cleaning service, key and lock service, security service, taxi or similar service
p. Tire: sales, service
q. Fleet services;
r. Hall rental;
s. Outside display and sales.

3. 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.

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

5. 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.

Report – Executive Policy Committee – January 18, 2012

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 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.

11. 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.

Report – Executive Policy Committee – January 18, 2012

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 12, 2012, the Executive Policy Committee concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 10, 2012, the Assiniboia 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 – 50 Willow Avenue**
File DASZ 2011

For submission to: **Executive Policy Committee**

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

Report date: **January 12, 2012**

COMMUNITY COMMITTEE RECOMMENDATION:

On January 10, 2012, the Assiniboia 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 40/2011 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 40/2011 dated December 29, 2011 with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

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

        iii. That the following uses shall not be permitted on the land:

a. AUTOMOBILE, including motorcycle: RENTAL, SALES, including accessory REPAIR, SERVICE, INSTALLATION OF SUPPLIES/PARTS
b. AUTOMOBILE, including motorcycle: SUPPLIES/PARTS, SALES
c. BEER: SALES
d. BINGO PARLOUR
e. BOWLING ALLEY
f. CONTRACTORS' ESTABLISHMENT
g. EXTERMINATOR
h. FARM SUPPLIES: SALES
i. MACHINERY/HEAVY EQUIPMENT SUPPLIES and PARTS:SALES, INSTALLATION, SERVICE
j. MOBILE HOME PARK
k. MOTORS or MACHINES, RECREATIONAL or UTILITY, including power toboggans, outboard motors, lawn mowers: RENTAL, SALE, SERVICE
l. PAWNSHOP
m. TATTOO PARLOUR
n. TERMINAL for HAULAGE, MOTOR FREIGHT STATION, excluding an intermodal terminal
o. TERMINAL for COURIER/DELIVERY/ EXPRESS SERVICE, CLEANING SERVICE, KEY AND LOCK SERVICE, SECURITY SERVICE, TAXI, or similar service
p. TIRE: SALES, SERVICE
q. FLEET services;
r. HALL rental;
s. Outside display and sales.

3. 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.

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

5. 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.

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 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.

11. 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.

The Assiniboia Community Committee provided the following supporting reason for its recommendation:

The Assiniboia Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated December 30, 2011.

PUBLIC HEARING SUMMARY

File: DASZ 40/2011

Applicant: Raymond S.C. Wan Architect
(Ray Wan)

Subject:



Premises Affected: 50 Willow Avenue

Exhibits Filed:
1. Application dated November 4, 2011
2. Notification of Public Hearing dated November 28, 2011
3. Manitoba Status of Title 2532496

4. Letter of authorization dated October 18, 2011 from 4548222 Manitoba Ltd. to Raymond S.C. Wan, Architect
5. Surveyor's Building Location Certificate and sketch dated May 4, 2011
6. Drawing of subject property
7. Plans (2 pages)
8. Report from the Planning and Land Use Division dated December 30, 2011
9. Inspection Report
10. Audio Recording of public hearing held on January 10, 2012

REPRESENTATIONS:

In Support:

Ray Wan

In Opposition

Nil

For Information:

Nil

For the City:

Mr. J. Wintrup, Principal Planner, Planning, Property and Development Department
Mr. M. Pyl, Planner, Planning, Property and Development Department

Exhibit "8" referred to in File DASZ 40/2011

ADMINISTRATIVE REPORT

Title: DASZ 40/2011 – 50 Willow Avenue

Issue: For consideration at the Public Hearing for a subdivision to consolidate three (3) lots and rezone to allow for an establishment of an office.

Critical Path: Assiniboia 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 40/11 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 40/11 dated December 29, 2011 with such minor changes as may be required, and 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 40/11 dated December 29, 2011 to C2 Commercial Community 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 to include the following conditions:

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m. TATTOO PARLOUR
n. TERMINAL for HAULAGE, MOTOR FREIGHT STATION, excluding an intermodal terminal
o. TERMINAL for COURIER/DELIVERY/ EXPRESS SERVICE, CLEANING SERVICE, KEY AND LOCK SERVICE, SECURITY SERVICE, TAXI, or similar service
p. TIRE: SALES, SERVICE
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3. 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.

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11. 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 intends to consolidate the three (3) lots for a total of **18,000 sq. ft.** under the existing building, and rezone the land to **C2 Commercial** in order to convert the existing building into an office space.
- The building will be enlarged by 510 square feet from 6,763 square feet to 7,273 square feet: 210 square feet will be added to the north side and 300 square feet added to the east side.
- Parking will be provided for 13 automobiles in the front yard along Willow Avenue, and for bicycles with racks near the front entrance.
- The land has functioned under Crown prerogative for 45 years as a C2 land use with a Canada Post dispatch centre, a land-use and building height not allowed under the RMF-S, but allowed under a C2 zoning.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, 30 single - family dwellings on fully serviced lots will be allowed for construction along Concordia Avenue East.

HISTORY

- The land has functioned under Royal Prerogative for 45 years as a C2 land use with a Canada Post dispatch centre, a land-use and building height not allowed under the RMF-S, but allowed under a C2 zoning.
- Royal Prerogative essentially means a more senior level of government, in this case the Federal Government, is immune to municipalities regulations, thus the Zoning By-law / Building Code, etc did not apply to the lands. Once the lands are transferred by way of sale out of the hands of the Crown, the municipalities regulations become effective.
- The building has been vacant for 2 years, thus any grandfathered or non-conforming rights that were intact, have been lost after 12 months of vacancy.

CONSULTATION

In preparing this report there was consultation with:

N/A

SUBMITTED BY

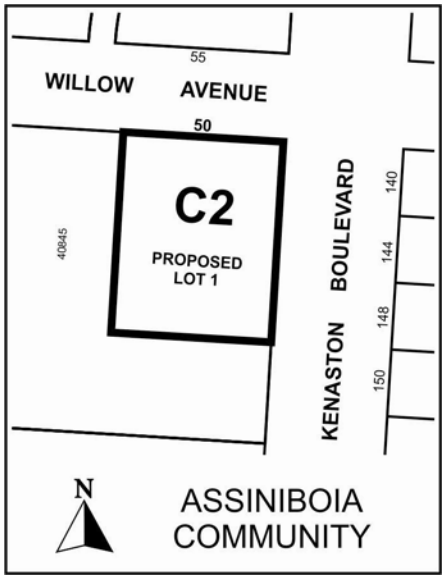
Department	Planning, Property and Development
Division	Planning and Land Use
Prepared by	John Wintrup
Date:	December 30, 2011
File No.	DASZ 40/11

List of Schedules and Attachments

1. Appendix A – Planning Discussion
2. Schedule “A” for File No. DASZ 40/2011

APPENDIX 'A'

DATE: December 30, 2011
FILE: DASZ 40/11
RELATED FILES:
COMMUNITY: Charleswood - Tuxedo
NEIGHBOURHOOD #: 6.621
SUBJECT: Subdivision and Rezoning to create one commercial lot for office use
LOCATION: 50 Willow Avenue



APPLICANT: Ray Wan Architecture
1 – 1250 Waverly Street
Winnipeg, Manitoba

OWNER: 4548222 Manitoba Ltd.
1 – 1250 Waverly Street
Winnipeg, Manitoba

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant intends to consolidate the three (3) lots for a total of **18,000 sq. ft.** under the existing building, and rezone the land to **C2 Commercial** in order to convert the existing building into an office space.
- The building will be enlarged by 510 square feet from 6,763 square feet to 7,273 square feet: 210 square feet will be added to the north side and 300 square feet added to the east side.
- Parking will be provided for 13 automobiles in the front yard along Willow Avenue, and for bicycles with racks near the front entrance.

- The land has functioned under Royal Prerogative for 45 years as a C2 land use with a Canada Post dispatch centre, a land-use and building height not allowed under the RMF-S, but allowed under a C2 zoning.

SURROUNDING LAND USES AND ZONING

- The subject lands are **18,000 sq. ft.** located on the southwest corner of Willow Avenue and Kenaston Blvd, in the Old Tuxedo neighbourhood of the Charleswood – Tuxedo ward.
- The site is zoned **RMF- S Residential Multi-Family District – Small** and is square-shaped with 120 feet of frontage along Willow Avenue and 150 feet along Kenaston.
- The land is occupied by a vacant, 6,763 square foot brick building 49 feet in height.
- Adjacent property the south and the west is zoned **RMF- S** and occupied by a non-accessory parking lot associated with the Jewish Community Campus.
- Surrounding properties to the north across Willow Avenue include the passive park 'Kenaston Willow Parkette' owned by the City zoned 'PR1'; to the east across Kenaston are single family dwellings zoned R1-L that front directly onto Kenaston Blvd.; and further to the south is the Manitoba Youth Centre / Community Youth Corrections zoned RMF-S.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant intends to consolidate the three (3) lots under the existing building, and zone the land to **C2 Commercial** in order to convert the existing building into an office space.
- The building will be enlarged by 510 square feet from 6,763 square feet to 7,273 square feet: 210 square feet will be added to the north side and 300 square feet added to the east side.
- Parking will be provided for 13 automobiles in the front yard along Willow Avenue, and for bicycles with racks near the front entrance.

ANALYSIS AND ISSUES

ZONING (BY-LAW 200/2006)

- **RMF- S Residential Multi-Family District - Small** is intended to accommodate the development of multi-family units in neighbourhoods with medium to high residential densities.
    - There is a front & rear yard requirement of 25 feet and the maximum building height is 35 feet.
    - The minimum lot area per dwelling unit is 1,250 square feet per dwelling unit.

- **C2 Commercial Community District** is intended to accommodate more intensive commercial sites that do not have a local or neighbourhood orientation.
    - The district is intended to include attractive commercial, institutional, recreational, and service facilities needed to support the surrounding neighbourhoods and the broader community.
    - In the C2, CMU, MMU, and M1 zoning districts a retail sales use is limited to a maximum of 40,000 square feet of gross floor area.
    - In the C2, CMU, and M1 zoning districts supermarkets are limited to a maximum of 55,000 square feet of gross floor area.
    - In the C2 zoning district, restaurants are limited to a maximum of 5,000 square feet of gross floor area.
    - C2 districts are generally located along collector streets, at arterial/collector intersections, or along portions of arterial streets with relatively shallow lots.
    - There is a rear yard requirement of 25 feet and a maximum building height of 49 feet.

    - Multi-family residential structures in the C2 district must meet the requirements of the RMF-M zone.
    - Single family residential structures must meet the requirements of the R1-M Zoning Districts.

- **PR1 Parks and Recreation 1 (Neighbourhood) District** is intended for sites that are generally passive neighbourhood and community parks and facilities with predominantly pedestrian and cyclist access.
    - These sites may provide unstructured drop-in play and recreation opportunities, including play structures, passive parks, plazas and natural areas.
    - Generally, no parking facilities are associated with these uses.
    - These parks and open spaces typically occur in a residential neighbourhood or riverbank context and are generally accessed by residential streets.

LAND-USE BY-LAW

- The change in zoning will allow a greater number of land-uses to occupy the subject lands.
- RMF-S is orientated to residential land-uses of multiple family nature whereas C2 is orientated towards commercial, institutional, and services facilities.
- The allowable height of a structure will increase from 35 feet to 49 feet.
- The Division is recommending a **Zoning Agreement:** A legal agreement attached as a caveat to a land title as a condition of approval for a rezoning or a rezoning/subdivision process.
- Provisions of a zoning agreement may prescribe land use restrictions, hours of operation, and dimensional standards (such as building heights and setbacks) that are more stringent than the Zoning By-law for the proposed new zoning category.

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.

SITE PLAN

- The applicant has submitted a draft site plan that indicates improvements to the exterior of the building, parking area, and front yard.
- Improvements include enclosing the garbage containers, installing a new bike rack, relocating a new transit bench, installing new unit pavers, and planting new trees.
- Details for the garbage enclosure and the fencing have not been provided.
- Considering the high visibility of this location on a well travelled route in Winnipeg, the Division is recommending that the new fencing along Willow Avenue be a black ‘wrought’ iron style [there are no houses directly north to consider for head light glare];

and the garbage enclosure be constructed of brick since it is located right along the Willow Avenue right-of-way.
- The Division would normally seek landscaping to screen the garbage enclosure and soften a wood barrier fence, however, we recognize the dimensions of the lot in combination of the building location make it difficult to provide a planting strip.
- Site plans will be a condition of approval for submission to the Community Committee for review & approval.

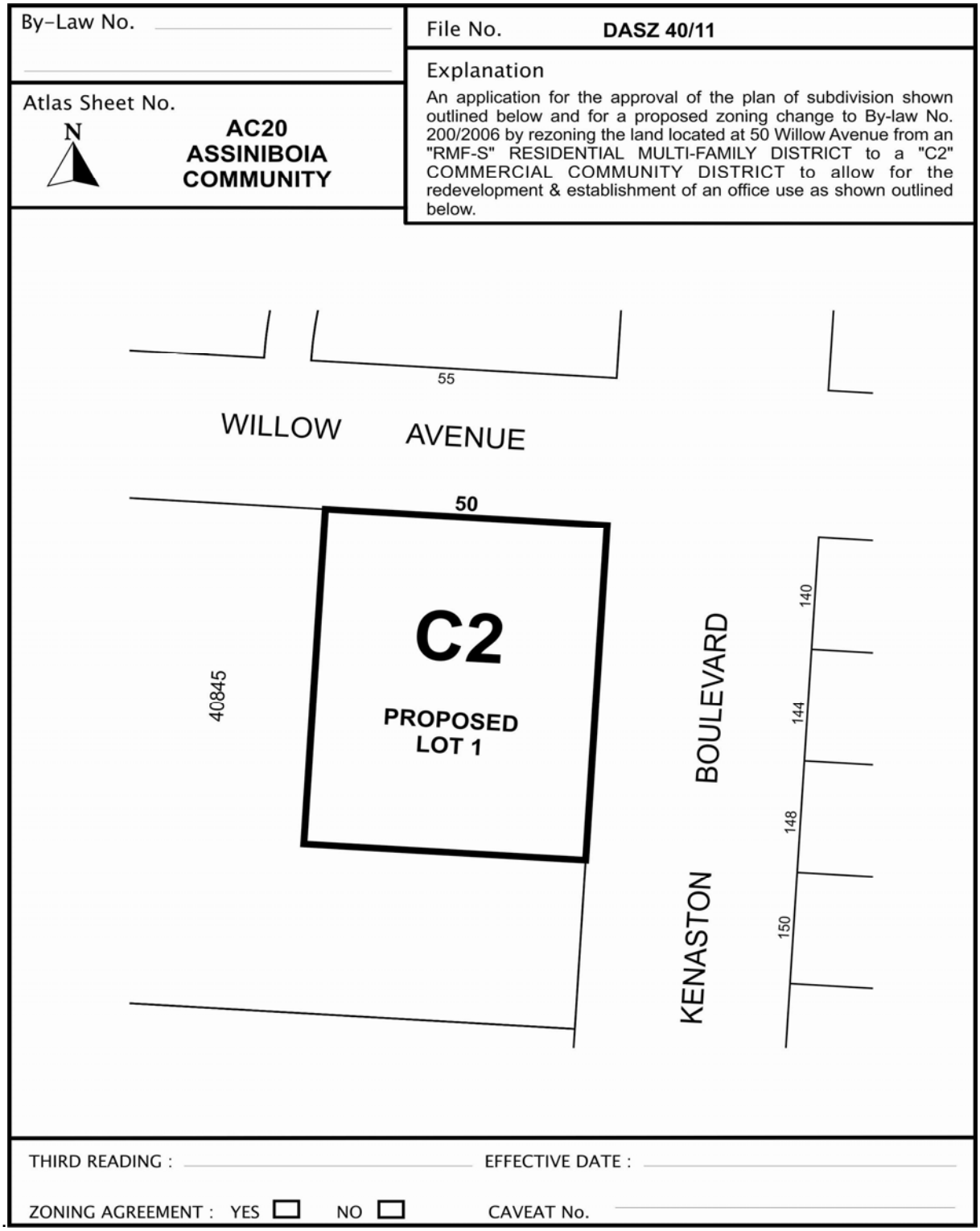
RECOMMENDATIONS
The Planning and Land-Use Division supports rezoning and consolidating the lands to allow the occupation of the building for an office use.

- The land has functioned for 45 years as C2 land use with a Canada Post dispatch centre, a land-use not allowed under the RMF-S, but allowed under a C2 zoning.
- The change in zoning will bring the existing facility into conformity with the Zoning By-law as the allowable height for a building will change from 35 feet to 49 feet [the current building's height is 49 feet].
- The proposed subdivision will ensure the existing building crossing several lot lines will be contained with one lot, avoiding issues regarding the Manitoba Building Code.
- Nearby land uses are of a similar nature and the direct impacts on nearby residential dwellings can be mitigated with the proposed conditions under a Zoning Agreement.

As conditions of approval, the applicant will be required to enter into a zoning agreement that restricts the type land-uses more so then the Zoning By-law for C2 Commercial. Given the proximity of the land near residential dwellings to the north, the Division is recommending restricting automobile orientated land-uses, and possible high traffic generating land-uses to ensure that, should these uses come forward, further review can occur to provide mitigation regarding any potentially negative effects. Temporary signage (mobile signs, etc) will also be restricted. Site plan approval for the building and landscaping design / details will be required at the Community Committee.

This Report Submitted by: John Wintrup
Planning, Property and Development Department
Planning and Land Use Division
Report Prepared by:
PPD File # DASZ 40/11

Schedule “A” for File No. DASZ 40/11, Assiniboia Community Committee, dated December 30, 2011.



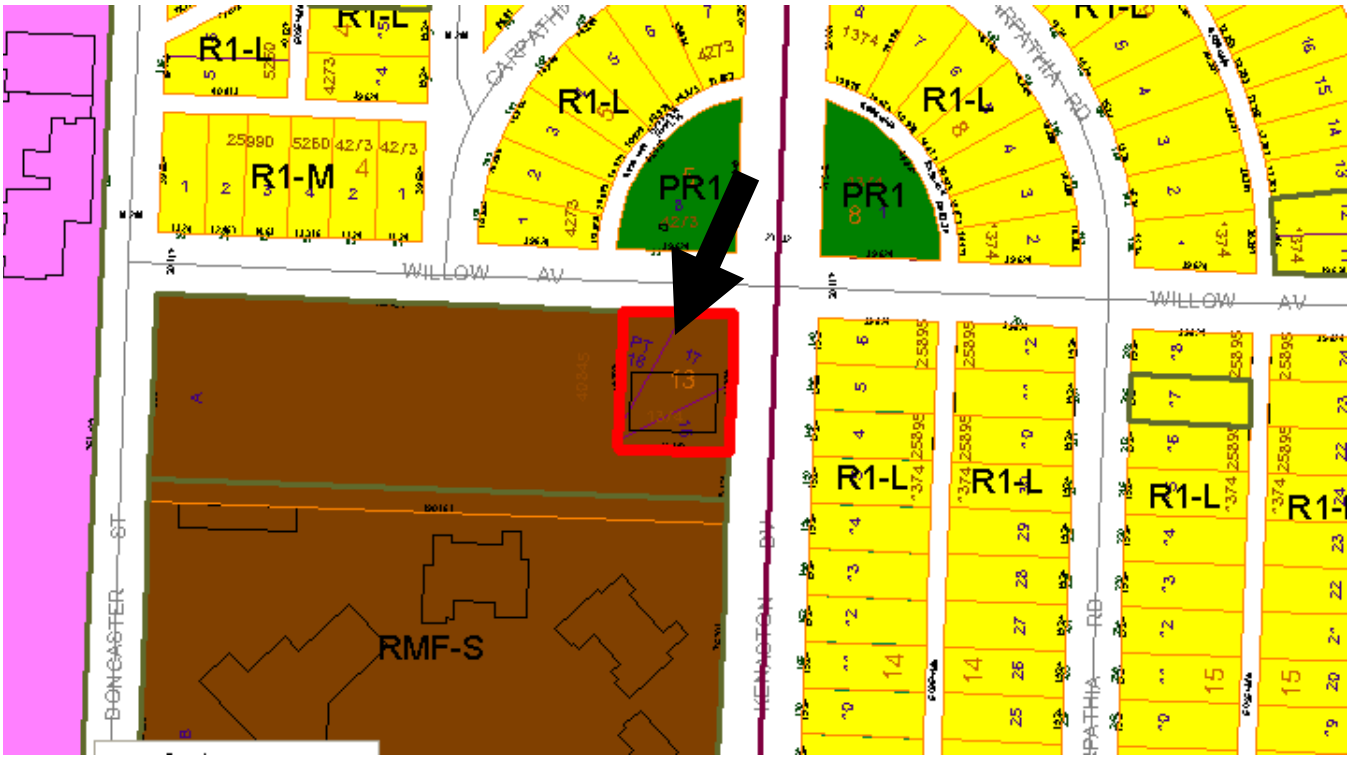


Figure 1: Existing Zoning for subject property and Surrounding Area.



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