Agenda - Executive Policy Committee - June 18, 2003

Report - Standing Policy Committee on Property and Development - June 3, 2003

Item No. 7 Proposed Rezoning - 359 Lockwood Street
File DAZ 206/2003 [c/r DAV 130/2003D]

STANDING COMMITTEE RECOMMENDATION:

On June 3, 2003, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee, and recommended to Council that the rezoning application under File DAZ 206/2003 not be proceeded with.

Report - Standing Policy Committee on Property and Development - June 3, 2003

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On June 3, 2003, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee, and submitted the matter to Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On May 6, 2003, the City Centre Community Committee concurred in the administrative recommendation, that the rezoning application under File DAZ 206/2003 not be proceeded with, and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Proposed Rezoning - 359 Lockwood Street**
File DAZ 206/2003 [c/r DAV 130/2003D]

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

Prepared by: **Carol R. Freeman, Clerk, City Centre Community Committee**

Report date: **May 13, 2003**

COMMUNITY COMMITTEE RECOMMENDATION:

The City Centre Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development that the rezoning application under File DAZ 206/2003 not be proceeded with.

The City Centre Community Committee provided the following supporting reasons for its recommendation:

1. The area has seen increased traffic as a result of approval of a medical clinic at 1835 Corydon Avenue and Lockwood Street.

2. The subject property is located in a residential area, with a Lockwood Street address, while the medical clinic property faces Corydon Avenue and provides a heavy buffer of trees as a separation from the residential area.

3. There is an extraordinary resale value for residential properties in the area.

PUBLIC HEARING SUMMARY

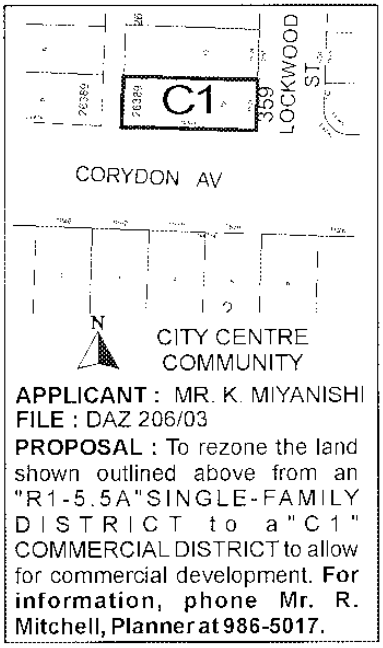
File: DAZ 206/2003 [c/r DAV 130/2003D]

Before: City Centre Community Committee
Councillor Steek, Chairperson
Councillor Gerbasi
Councillor Smith

Public Hearing: May 6, 2003
West Committee Room, Council Building
510 Main Street

Applicant: Ken Miyanishi
14 Linda Place
Winnipeg, MB R2E 0H7

Subject:



Premises Affected: 359 Lockwood Street

Exhibits Filed: 1. Application dated March 6, 2003
2. Advertising notice dated April 28, 2003
3. Manitoba Status of Title 1931186

4. Building Location Certificate and Sketch dated February 3, 2003
5. Extract from Atlas Sheet AD20
6. Plans (3 pages)
7. Report of the Manager of Planning and Land Use dated April 15, 2003
8. Communication from Penny Forbes, 339 Lockwood Street, in opposition to the application, dated April 25, 2003
9. Communication from Ken Miyanishi, 14 Linda Place, in support of the application, dated January 15, 2003
10. Communication from Betsy and Kenneth Gibbons, 335 Lockwood Street, in opposition to the application, dated April 28, 2003

10A. Communication from Betsy and Kenneth Gibbons, 335 Lockwood Street, in opposition to the application, dated April 28, 2003

11. Communication from Reni Johannson, 347 Lockwood Street, in opposition to the application, dated April 29, 2003
12. Communication from Raymond and Helen Wiebe, 392 Lockwood Street, in opposition to the application, dated April 28, 2003
13. Communication from Frank and Mary Mak, 346 Carpathia Road, in opposition to the application, dated April 29, 2003
14. Communication from Alice Grahame, 343 Lockwood Street, in opposition to the application
15. Communication from Art and Doreen Beals, 388 Lockwood Street, in opposition to the application, dated May 1, 2002
16. Communication from Sandra Mendell, 333 Lockwood Street, in opposition to the application, dated May 1, 2003
17. Communication from Judy Phillips, 162-2025 Corydon Avenue, in opposition to the application, dated May 1, 2003
18. Communication from Sophia de Boda, 351 Lockwood Street, in opposition to the application, dated May 2, 2003
19. Communication from Phil and Susan Swinn, 315 Lockwood Street, in opposition to the application, dated May 5, 2003
20. Photographs of the Site and Inspection Notice
21. Petition, six (6) pages, containing the signatures of sixty-one (61) residents of the area, in opposition to the application, submitted by Ken Gibbons

22. Communication from Larysa Pitkowsky, Chair, Carpathia School Parent Advisory Council, 300 Carpathia Road, in opposition to the application, dated May 5, 2003
23. Communication from Kerry Corbin, Co-Chair, Carpathia Kid Care, 300 Carpathia Road, in opposition to the application
24. Communication from Eveline Tanner, 350 Carpathia Road, in opposition to the application, dated May 5, 2003

REPRESENTATIONS:

In Support:

Ken Miyanishi, 14 Linda Place, Winnipeg, R2E 0H7
Ross MacDonald, 23 - 303 Roslyn Road, Winnipeg, R3B 0B4

In Opposition:

Art and Doreen Beals, 388 Lockwood Street, Winnipeg, R3N 1S4
Carol and Chris Carbert, 342 Carpathia Road, Winnipeg, R3N 1T5
Kerry Corbin, Co-Chair, Carpathia Kid Care, 300 Carpathia Road, Winnipeg, R3N 1T3
Sophia de Boda, 351 Lockwood Street, Winnipeg, R3N 1S3
Heather Elgert, 325 Lockhart Street, Winnipeg, R3N 1S3
Roberta and Penny Forbes, 339 Lockwood Street, Winnipeg, R3N 1S3
Ken and Betsy Gibbons, 335 Lockwood Street, Winnipeg, R3N 1S3
Alice Grahame, 343 Lockwood Street, Winnipeg, R3N 1S3
Reni Johannson, 347 Lockwood Street, Winnipeg, R3N 1S3
Moira Malegus, 362 Carpathia Road, Winnipeg, R3N 1T5
Frank and Mary Mak, 346 Carpathia Road, Winnipeg, R3N 1T5
Chris Martin, 355 Lockwood Street, Winnipeg, R3N 1S3
Patti McDougall, 366 Carpathia Road, Winnipeg, R3N 1T5
Sandra Mendell, 333 Lockwood Street, Winnipeg, R3N 1S3
Judy Phillips, 162 - 2025 Corydon Avenue, Winnipeg, R3P 0N5
Larysa Pitkowsky, Chair, Carpathia School Parent Advisory Council, 300 Carpathia Road, Winnipeg, R3N 1T3
Phil and Susan Swinn, 315 Lockwood Street, Winnipeg, R3N 1S3
Eveline Tanner, 350 Carpathia Road, Winnipeg, R3N 1T5
Bill Voulgaris, 404 Lockwood Street, Winnipeg, R3N 1S4
Raymond and Helena Wiebe, 392 Lockwood Street, Winnipeg, R3N 1S4

For the City:

Ross Mitchell, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Ken Miyanishi, appearing in support of the application, advised that he would like, for at least the next 10 years, to operate a beauty salon, with himself as the sole operator and one aesthetician. His plan was to provide 5 parking spaces, he had no opposition to a limit on the hours of operation from 9:00 a.m. to 7:00 p.m. Monday to Friday, and there might be one neon sign located in a window facing Corydon Avenue. He also indicated that construction of a fence along the north property line to separate the property from the adjacent neighbour would also not be a problem.

In response to an inquiry, Mr. Miyanishi advised that he had purchased the property and then applied for the rezoning. He indicated that he was currently leasing space and if the rezoning was not approved he would continue to repair the home and then resell it.

Ross MacDonald, appearing in support of the application, advised that he was a designer, general contractor and the applicant's son-in-law. He indicated that he understood the neighbourhood concern that approval of the beauty salon could result in a 10-year operation followed by the applicant's retirement and a change of use to a 7-11. He noted that the exterior of the building would not be altered, improvements would be made to the landscaping there would be a general cleanup of the site and a restriction prohibiting a change in use was not a problem. Mr. MacDonald further advised that there would be only two chairs for stylists and then perhaps one aesthetician and the garage would be demolished and replaced with a parking pad for 5 vehicles. In addition, should the application be approved, all traffic would be directed towards the rear of the site.

The Senior Planned advised that the rezoning application was a requirement as the related variance application provided authority to commence operations pending Council approval of the rezoning.

Ken Gibbons, appearing in opposition to the application, advised that he had resided on Lockwood Street for fourteen (14) years and it had always been a friendly, peaceful and low traffic residential street. He submitted a petition containing the signature of sixty-one (61) residents of the area, filed as Exhibit No. 21, who had concerns with a change in zoning from residential to commercial. It was his belief that any change would have an injurious impact on the residential character of the street and on property values and represented the thin edge of the "commercial" wedge.

Mr. Gibbons expressed concern that once the rezoning was approved it would not be reversed. He noted that Lockwood Street had always been a quiet and peaceful street and a number of children used the lane. He also noted that the applicant was suggesting an increase in the parking

spaces from the original plan of three (3) or four (4) to five (5). He indicated that the residents were opposed to the project, not the person, and to anything other than the single-family property that it is at the present time.

Heather Elgert, appearing in opposition to the application, advised that she had small children and since the medical clinic opened, had noticed that vehicles were parked for the length of five (5) houses on the street all the time. She indicated that the medical clinic did not have the parking required even with only 3 doctors.

Mrs. Elgert also advised that there were 5 beauty salons on Corydon Avenue within a 3 block radius. She indicated that she wanted to know her children were safe when they were on their bicycles or skateboards and she wanted to be safe when she walked the baby. Noting that Lockwood Street had always been residential from the railway tracks to Corydon Avenue, she expressed concern that once the subject property was zoned commercial it would stay commercial.

Carol Carbert, appearing in opposition to the application, advised that she shared the back lane with the house under consideration. She noted that between Carpathia Road and Lockwood Street there was an elementary school and a crosswalk on Carpathia Road that all the children south of Corydon Avenue use. She expressed concern that parking would not be restricted to the lane and would probably end up on Corydon Avenue, which would make it more difficult to get the children across the crosswalk safely.

Mrs. Carbert indicated that within 1 kilometre there were 6 beauty salons and 5 within a 2 block radius. Noting that she was a licensed real estate agent, she suggested that a commercial zoning would devalue adjacent properties. She indicated that there was a shortage of homes for sale in River Heights at the present time, with only 8 listings between $80,000.00 and $140,000.00. She also indicated that there had been 49 homes sold in the area recently and it was her belief the subject property could be sold easily if it remained residential given the competition and number of sales in the area. She also expressed concern with respect to future use of the property should the beauty salon fail.

Patti McDougall, appearing in opposition to the application, advised that she had resided on Carpathia Road, 4 doors to the north and on the same back lane as the subject property for nearly 14 years. She indicated that her concern was for the residential aspect of the neighbourhood and the domino effect approval of a commercial zoning might have. She noted that between Corydon Avenue and Lockwood Street the only people using the lane were residents and because of the school the lane was not generally used as a through street. She suggested that the applicant's intention to use only the back lane for parking would increase use of the lane. She re-iterated that her main concern was traffic, that she had 3 young children and had moved to the area because of the quiet and beauty.

Reni Johannson, appearing in opposition to the application, advised that she resided 2 houses from the subject property and had purchased her home 16 years previous. She noted that because of the size of their back yard they had constructed a raised deck and after four (4) years

had built an addition to the home as they wanted to remain there. She suggested that approval of the application would eliminate her privacy given she was only 2 houses away and that even a 6 foot fence would not prevent people from seeing them on the deck.

Mrs. Johannson advised that she had a 10 year old child whose best friend lives across the back lane as a result of which the children go back and forth on a daily basis. She expressed concern that increased traffic would be a serious safety concern and noted there had been both an increase in traffic and parking on the street since the medical clinic had opened.

Doreen Beales, appearing in opposition to the application, advised that she resided approximately 6 houses from Corydon Avenue on Lockwood Street. She indicated that there was already more traffic and parking as a result of the medical clinic and the assurances made at the time of that rezoning were not being kept. She also anticipated the same thing would happen should the beauty salon be approved. Noting that school buses use the street during the school year and with the railway tracks behind them, more commercial was not needed. She also questioned what the building could be turned into if the beauty salon did not flourish.

Bill Voulgaris, appearing in opposition to the application, advised that he resided directly across the street to the subject property, right next door to the medical clinic. He noted that much of the neighbourhood had been in favour of the medical clinic, however, he did not see how a beauty salon was an essential service for the area. He indicated that the property did not have a Corydon Avenue address but rather one on Lockwood Street, and there was a crosswalk for children right where the parking was proposed to be located. He also suggested that he did not think anyone wanted to sit in their backyard and look at a 6 foot fence.

Chris Martin, appearing in opposition to the application, advised that he resided immediately adjacent to the subject property. He indicated his concerns were traffic and parking, particularly given the location of the medical clinic. In his view, his parking pad might be used if there was insufficient parking for the salon and he was concerned the value of his property would decrease.

Mr. Miyanishi advised that he appreciated the residents' concerns. He noted that he had his own clientele and was not interested in developing a larger clientele. In response to an inquiry he advised that the property had been purchased by way of private sale.

In reply please refer to / Référence à rappeler : **Ross Mitchell**
(204) 986-5017
Fax / TJlJc. : (204) 986-3684

File No. DAZ 206/03 (c/r DAV 130/03D) April 15, 2003
Our c/f CP 500 (.626)

Ms. Carol Freeman, Clerk
City Centre Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Freeman:

REZONING
359 Lockwood, northwest corner at Corydon
City Centre Community Committee
File No. DAZ 206/03

An application has been received from Ken Miyanishi to amend By-Law No. 6400/94 by rezoning the land shown below from a/an "R1-5.5A" Airport Area Residential District to a/an "C1" Commercial District for the establishment of a Beauty Salon.
RELATED FILES: DAV 130/03D



SITE DESCRIPTION:

Site Area: About 5,875 square feet; lot is 50 feet wide with a maximum depth along Corydon of 130 feet.

Existing Land Use and Zoning: Single-family dwelling zoned "R1-5.5A" Airport Area Residential District

Surrounding Land Use and Zoning:

North: Single-family housing zoned "R1-5.5A"

South: Across Corydon, Canadian Forces Base housing (singles and semi-detached) zoned "R2" Two-family Residential District

East: Across Lockwood, Medical Clinic zoned "C-1.5" under DAZ 211/02.

West: Across public lane, single-family housing zoned "R1-5.5A Airport Area Residential District.

DEVELOPMENT DESCRIPTION:

The proposal is to convert an existing, 1,250 square foot, one-storey single-family dwelling into a beauty salon. An existing garage on the property is to be demolished, and a parking pad established off the back lane for 5 vehicles.

PLAN WINNIPEG:

The lot is designated Neighbourhood Policy Area under Plan Winnipeg. It is within the rights of property owners to apply to rezone lands from residential use to commercial use within Neighbourhood Policy Areas. The application therefore complies with Plan Winnipeg.

ADMINISTRATIVE COMMENTS:

Typically, the Department does not support the commercial conversion of houses along streets like Academy, Corydon and Grant in River Heights. Most of the businesses that do exist in converted houses predate the current zoning by-law. The Department understands the attraction of these streets for commercial development, including high traffic flow and a relatively prosperous resident profile. However, the north-south orientation of the connecting residential streets like Lockwood and Centennial precludes the separation of the commercial and residential uses by a public lane, as in the case of Corydon east of Stafford. Moreover, the shortage of parking on the commercial properties can have a detrimental impact on the residential streets where customers often go to park.

Notwithstanding the fact that well-integrated commercial development at a neighbourhood scale can greatly increase the quality-of-life within our older residential neighbourhoods, the subject application raises a number of questions as outlined below.

- *Would the subject business contribute to the liveability of the neighbourhood?* A beauty salon can provide a neighbourhood service. However, there is no shortage of beauty salons in the River Heights neighbourhood, and the Department is of the opinion that the

commercial conversion of the subject property is not justified by the need for the particular service.

- *Is the proposed business compatible with the residential environment in terms of traffic generation, staffing levels, hours of operation, etc.?* The applicant did not provide information as to staffing levels or hours of operation. However, the floor plan indicates space for 2 to 4 employees. This scale of operation could be compatible with the neighbourhood, assuming the availability of on-site parking for at least 2 customers.

- *Can the subject property be developed in such a way as to orient the customer activity away from adjacent housing?* The house is oriented towards Lockwood, where the main entry is located. A back entry leads to the parking area. The Department is of the opinion that customers and staff would be tempted to use Lockwood for parking.

- *If the salon was to cease operation, would the conversion of the house to another type of commercial use be appropriate?* In this regard, there is a safeguard for area residents available in the form of a Zoning Agreement. Such an agreement can ensure that the development remains as compatible as possible with the residential environment. A Zoning Agreement can limit the use of the property to the one proposed, in this case a beauty salon, or to a broader range of commercial uses agreeable to the neighbourhood. A Zoning Agreement can require the maintenance of the existing building or, in the case of new construction, can set yard and bulk requirements specific to the site. The agreement can also regulate items such as signage and hours of operation. A Zoning Agreement guarantees that residents will have a say in the future use of the property through the public hearing process associated with an amendment to a Zoning Agreement.

- *Are neighbourhood residents generally supportive of the proposed use?* The Public Hearing for the rezoning affords residents an opportunity to register their support or opposition to a particular application. It is difficult to predict how a neighbourhood may respond. In the past, residents of River Heights have generally been opposed to the further commercial conversion of houses along the major east-west arterials. However, the rezoning of 1835 Corydon Avenue, across Lockwood, for a medical clinic (DAZ 211/02) was approved by the Community Committee. Also, a recent rezoning application (DAZ 218/01) for a 5-chair hair salon at the southwest corner of Corydon and Beaverbrook was unopposed by area residents and is operating without complaint in spite of insufficient parking.

- *Would the establishment of the proposed use encourage the commercial conversion of other houses in the vicinity?* In the opinion of the Department, the conversion of the subject property to commercial use will set a precedent for the commercial conversion of other, similarly situated houses in the vicinity. To allow the subject application would encourage the further commercialization of residential properties along Corydon.

On the basis of the above discussion, the Department is of the opinion that the rezoning should not proceed. However, should your Committee choose to approve the application, the following recommendation would apply.

RECOMMENDATION:

I. That By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 206/03, attached hereto and dated, April 15, 2003, to a "C1" Commercial District, subject to the following:

A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 591(1) of The City of Winnipeg Act, to provide for the following:

1. That the use of the property be restricted to the following uses including accessory and secondary uses:
   - Beauty Salon
   - Barber Shop
   - Professional Office

2. That a 6 foot 6 inch wooden privacy fence be constructed/maintained along the north property limit from the rear wall of the building to the public lane, and that the parking area be paved and fenced in accordance with by-law requirements.
3. That, prior to the issuance of a development permit or occupancy permit, plans showing the site layout, parking, fencing, landscaping, signage, external lighting, and exterior building elevations and materials be submitted for the approval of the City Centre Community Committee.
4. That no freestanding or pylon signs, poster boards, mobile or temporary signs be permitted on the property and that no signage be visible from Lockwood.
5. That the hours of public operation be limited to between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday, with Sunday closings.
6. That buildings on the site be limited to a height of 1 storey, with a minimum front yard of 31 feet, and a minimum north side yard of 5'7".

II. That a 10 per cent 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 the market value of the land.

III. That, in the event this application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

IV. That the City Solicitor be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

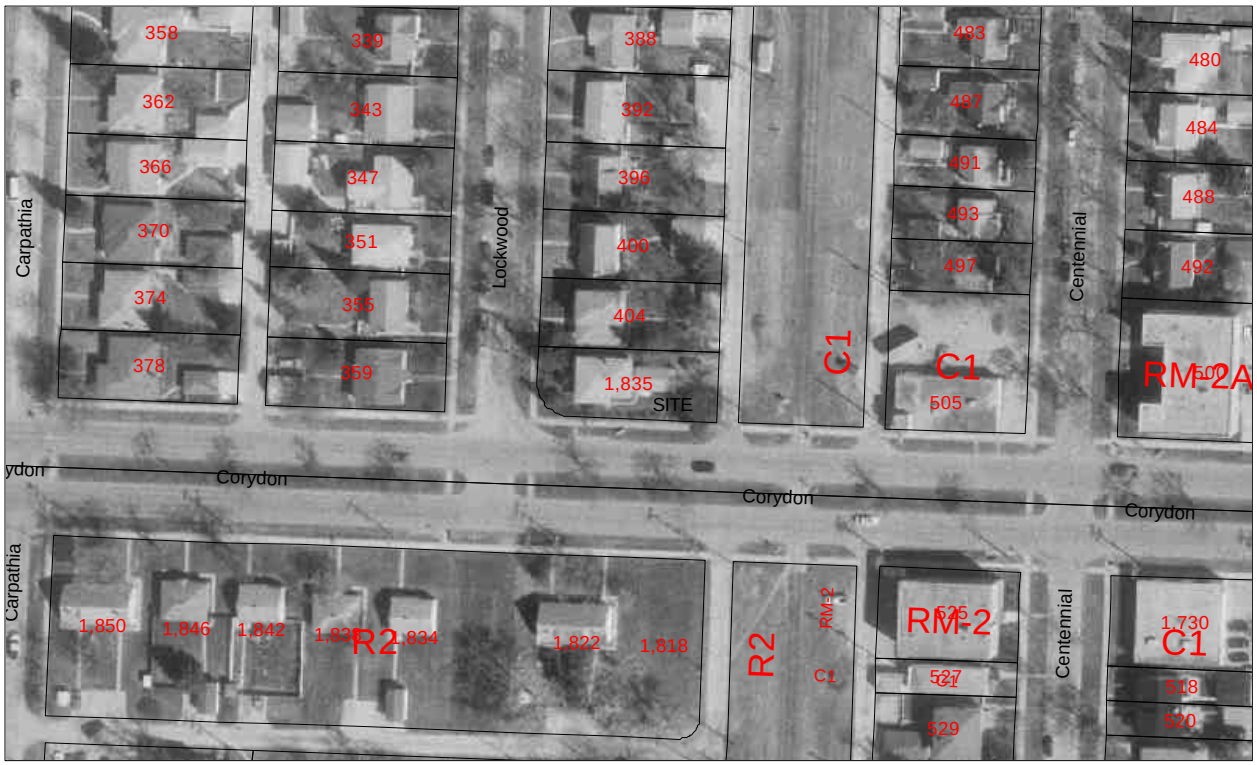
V. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat as a first charge against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law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

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

VII. That the City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Act.

Sincerely,

C. Knoll
Acting Manager of Planning and Land Use
Per: Ross Mitchell, Senior Planner
(City Centre Community) 986-5017



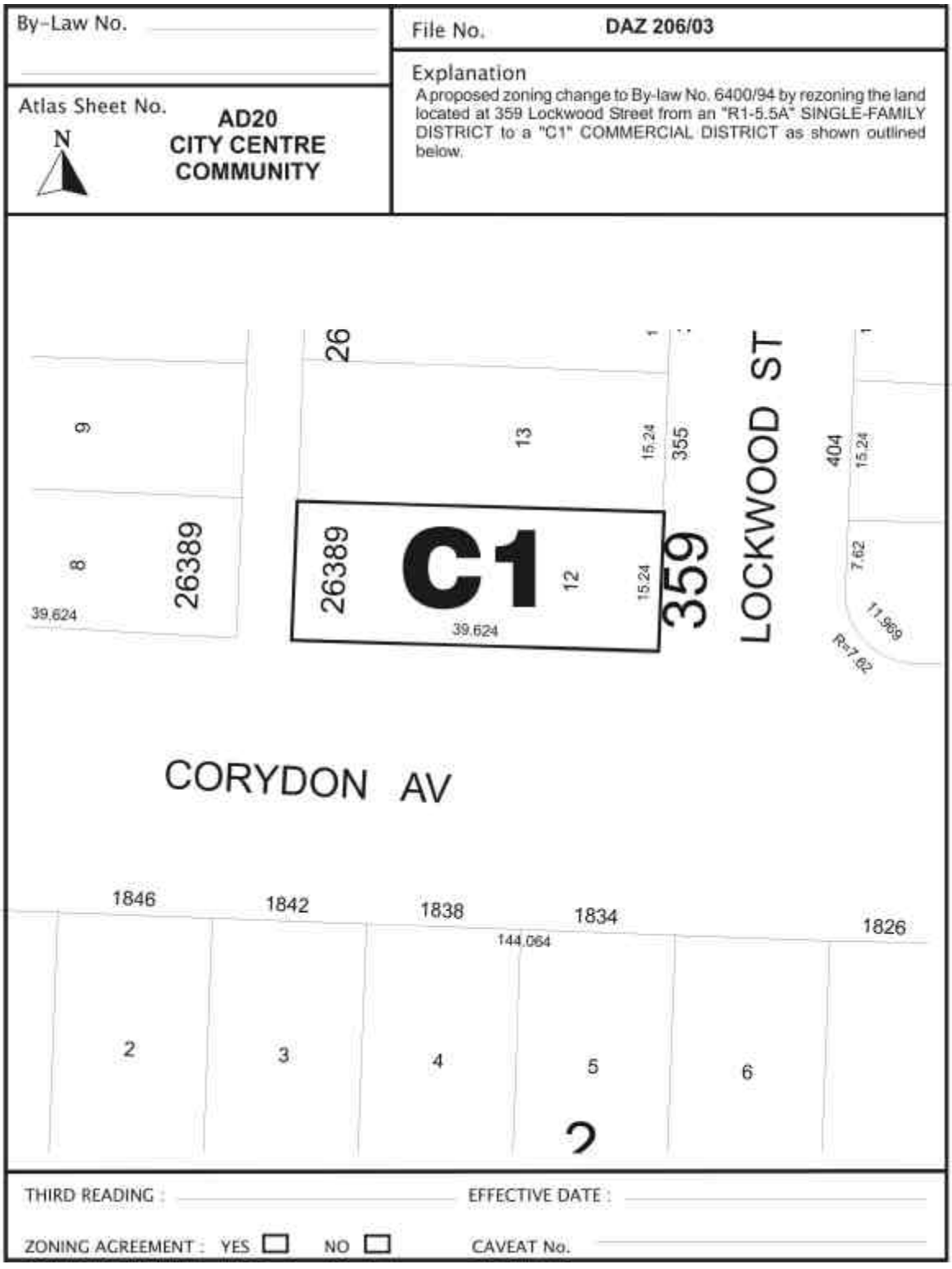


Figure 1: Schedule "A" to the report to the City Centre Community Committee for File No. DAZ 206/03, dated April 15, 2003.