Minute No. 330
Report – Executive Policy Committee – April 17, 2013

Item No. 3 Subdivision and Rezoning – 1271 and 1277 Henderson Highway (North Kildonan Ward)
File DASZ 39/2012 [c/r DAV 104917/2013D]

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the plan of subdivision proposed under File DASZ 39/2012 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 39/2012 dated March 15, 2013 with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 39/2012 dated March 15, 2013, to a "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, accessory parking areas, garbage enclosures, fencing, landscaping, bicycle parking, 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 there shall be no advertising signs or mobile signs on the entire site.

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 and the creation of additional lots, be paid to the City for the purchase of land for purposes of the City other than streets.

Report – Executive Policy Committee - April 17, 2013

COUNCIL DECISION (continued):

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 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.

10. 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 - April 17, 2013

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 17, 2013, the Executive Policy Committee concurred in the recommendation East Kildonan-Transcona Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 9, 2013, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Subdivision and Rezoning– 1271 and 1277 Henderson Highway**
File DASZ 39/2012

For submission to: **Executive Policy Committee**

Prepared by: **Josie Marques, Senior Committee Clerk**
East Kildonan-Transcona Community Committee

Report date: **April 10, 2013**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 9, 2013, The East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

1. That the plan of subdivision proposed under File DASZ 39/2012 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 39/2012 dated March 15, 2013 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 or mobile signs on the entire site.

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 and the creation of additional lots, 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.

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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 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.

10. 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 East Kildonan-Transcona Community Committee provided the following supporting reason(s) for its recommendation:

1. The proposal is consistent with block which is primarily commercial.

2. There is constantly demand for additional commercial properties along the Henderson corridor.

3. It is good to see the property development in this fashion

PUBLIC HEARING SUMMARY

File: DASZ 39/2012

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

Public Hearing: April 9, 2013
Council Building, 510 Main Street

Subject:



APPLICANT : CONCORD PROJECTS LTD.
FILE : DASZ 39/12
PROPOSAL : An application for the approval of the plan of subdivision shown outlined above as may be determined by Council and for a proposed zoning change to By-law No. 200/2006 by rezoning the land shown outlined above from an "R1-L" RESIDENTIAL SINGLE FAMILY DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT and to be consolidated with the property adjacent to the north to allow for the construction of an addition to an existing commercial building. **For information, phone Mr. M. Pyl, Planner, at 204-986-5595.**

Premises Affected: 1271 and 1277 Henderson Highway

Exhibits Filed:

1. Application dated December 13, 2012
2. Notification of Public Hearing dated February 14, 2013
3. Manitoba Status of Titles 1321080/1, 1321081/1, 1321082/1, 1578375, 1578375/1, and 2299982/1
4. Letter of authorization dated December 4, 2012 from CPL Developments to Concord Projects Ltd.
5. Letter of authorization dated January 28, 2013 from 1274 Henderson Ltd. to Concord Projects Ltd.
6. Surveyor's Building Location Certificate and sketch dated November 22, 2012
7. Zoning Agreement DAZ 218/98
8. Caveat dated November 3, 1998
9. Plans (2 pages)
10. Report from the Planning and Land Use Division dated March 15, 2013
11. Inspection Report
12. Audio Recording of representations

REPRESENTATIONS:

In Support:

Chris Slota

In Opposition

Nil

For Information:

Nil

For the City:

Michael Pyl, Planner, Planning, Property and Development Department

Exhibit "8" referred to in File DASZ 39/2012

ADMINISTRATIVE REPORT

Title: DASZ 39/12 – 1271 Henderson Hwy

Issue: For consideration at the public hearing to rezone the subject property to allow for the expansion of an existing commercial building

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

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Smith	n/a	n/a	

RECOMMENDATIONS

1. That the plan of subdivision proposed under File DASZ 39/2012 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 39/2012 dated March 15, 2013 with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 39/2012 dated March 15, 2013, to a "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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10. 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 expand the existing two storey commercial strip mall adjacent to the subject property. This will require that the subject property be consolidated with the rest of the block and its rezoning from “R1-L” to “C2”.
- This will also require the demolition of the existing single family dwelling.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning Division are concurred in, the subject property will be rezoned.

CONSULTATION

In preparing this report there was consultation with:

N/A

SUBMITTED BY

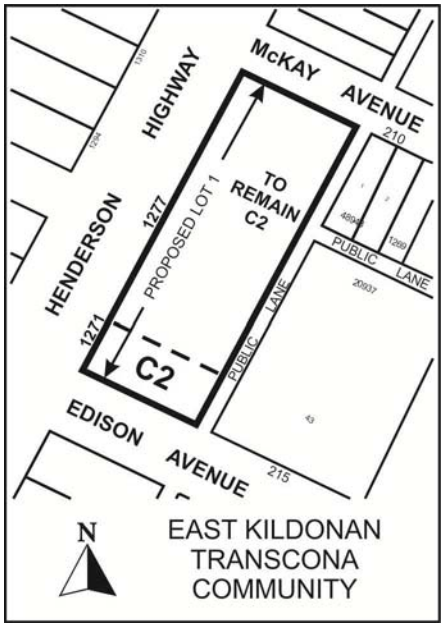
Department	Planning, Property and Development
Division	Urban Planning Division
Prepared by	Michael Pyl
Date:	March 15, 2013
File No.	DASZ 39/12

APPENDIX 'A'

DATE: March 15, 2013
FILE: DASZ 39/12
RELATED FILES: DAZ 202/94, DAZ 218/98
COMMUNITY: East Kildonan-Transcona
NEIGHBOURHOOD #: 4.413

SUBJECT: To rezone the subject property from "R1-L" Residential Single Family district to "C2" Commercial Community district and to consolidate it with the property adjacent to the north to allow for the construction of an addition to an existing commercial building

LOCATION: 1271 Henderson Hwy



APPLICANT: Nolan Ploegman
Concord Projects Ltd.
200-1277 Henderson Hwy
Winnipeg MB R2G 1M3

OWNER: CPL Developments Ltd.
200-1277 Henderson Hwy
Winnipeg MB R2G 1M3

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant intends to expand the existing two storey commercial strip mall adjacent to the subject property. This will require that the subject property be consolidated with the rest of the block and for it to be rezoned from “R1-L” to “C2”.
- This will also require the demolition of the existing single family dwelling.

SITE DESCRIPTION

- The subject property is located on the east side of Henderson Hwy between McKay Av and Edison Av in the Rossmere-A neighbourhood of the North Kildonan ward.
- The site is zoned “R1-L” Residential Single Family district and is currently occupied by one storey, 1,176 sq. ft. single family dwelling built in 1958. The subject property is 55 ft. wide, 120 ft. deep, and 6,600 sq. ft. in area.
- Adjacent properties include a commercial strip mall to the north zoned “C2” Commercial Community district, single family dwellings to the west across Henderson zoned “R1-L”, a 2 ½ storey multifamily dwelling zoned “RMF-M” Residential Multifamily district, and a park to the south across Edison Av zoned “PR1” Parks and Recreation – Passive Neighbourhood/Community district.



Figure 1: Site map of subject property and surrounding neighbourhood

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant intends to expand the existing commercial strip mall adjacent to the subject property. This will require that the subject property be consolidated with the rest of the block and its rezoning from “R1-L” to “C2”. It will also require the demolition of the existing single family dwelling.
- This addition will have approximately 6,000 sq. ft. of floor area over two storeys. Approximately 3,200-3,300 sq. ft. of floor area will be located on the first floor, while 2,700-2,800 sq. ft. will be located on the second floor.
- The addition will align with the existing strip mall, located at the rear of the property. Proposed front and rear yards will be consistent with this, while a 3 ft. corner side yard is proposed along the south property line.

BACKGROUND

DAZ 202/94

- On April 27, 1994, Council approved a rezoning on the property adjacent to the north from an "R1-5.5" Single Family district to a "C2-S" Suburban Commercial district to allow for the construction of a commercial strip mall.
- As a condition of this approval, the applicant was required to enter into a Zoning Agreement with the City requiring the following:
    - That the following uses are prohibited:
        - Convenience store
        - Drive-in restaurant
        - Drive-thru restaurant
        - Gas kiosk
        - Service station
        - Public garage
        - Automobile sales and rental
        - Beverage room
        - Beer and liquor store
        - Drive-through vendor
        - And any other drive-in or drive-through establishment.
- That plans showing the location and design of the proposed building, the type and colour of all exterior materials, the location and design of accessory parking areas, loading areas, private approaches, driveways, fencing, garbage enclosures, and landscaping are approved by the East Kildonan-Transcona Community Committee prior to the issuance of any building permit.

DAZ 218/98

- In 1998, Council approved a rezoning at 1297 Henderson Hwy, the property at the southeast corner of Henderson and McKay, from "R1-5.5" Single Family district to a "C2" Commercial district to expand the accessory parking area of the existing commercial development to provide an additional 24 stalls.
- This rezoning was approved with a Zoning Agreement containing the same conditions as those that were listed as per DAZ 202/94.

DAV 13-104917D

- In concurrence with this application, the applicant has also applied for a variance to allow for a rear yard of 3 feet instead of 25 feet.

ANALYSIS AND ISSUES

OurWinnipeg and Complete Communities Direction Strategy

- The Complete Communities Direction Strategy is one of four direction strategies supporting OurWinnipeg, the city's new long-range development plan, and is intended to gain statutory authority as a secondary plan. The strategy is intended to serve as a

"playbook" to guide land use and development in Winnipeg. It received third reading at City Council on July 20, 2011, and became effective on August 17, 2011.

- According to the Complete Communities Urban Structure Map, Henderson Hwy is designated as a "Regional Mixed Use Corridor". While corridors such as Henderson serve as major transportation routes, they serve the additional purpose of accommodating a mix of uses, functioning as vibrant urban places for Winnipeggers to live, work, and play. Through their residential, employment, and commercial intensification, people will be able to access a greater number of goods and services with one trip. Supporting Direction and Enabling Strategies include:
    - Focus a broad mix of residential, employment, and retail development within strategic locations along corridors.

Henderson Highway Corridor Secondary Plan

- The subject property falls within the boundaries of the Henderson Highway Corridor Secondary Plan, which has statutory authority as a secondary plan.
- This plan was adopted by Council in 1983 with the intent of promoting orderly development on Henderson Hwy and to preserve and maintain the stable residential neighbourhoods abutting Henderson within the plan area.
- The entire plan itself consists solely of three main policies:
    - To encourage the retention of the existing low density residential areas within the plan area.
    - Notwithstanding the policy aforesaid, sensitive development proposals may be entertained for the remaining single family properties on the east side of Henderson Hwy between Edison Av and McKay Av.
    - Subject to the policies aforesaid, to encourage the following minimum design criteria when evaluating proposals for commercial development:
        - Commercial redevelopment should only involve complete block redevelopment.
        - Access to commercial sites should only occur from the fronting arterial streets; and
        - Commercial buildings should only be located at the rear of the site with parking orientated to the front of the site.
- In 2001, the Public Service was directed to conduct a review on this secondary plan and concluded that, overwhelmingly, the character of Henderson Highway had not changed very much since 1980. The East Kildonan-Transcona Community Committee concurred with the recommendation of administration, which was:

"That the existing interpretation of the Plan continue to be recognized, this being to prohibit commercial redevelopment of single family residential properties on Henderson Highway in order to preserve the existing neighbourhoods and to maintain the stability of the residential development presently existing on Henderson Highway."

Zoning

- The Residential Single-Family (R1) district is intended to accommodate primarily single-family residential development in lower-density neighbourhoods.

- The Commercial Community (C2) 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. C2 districts are generally located along collector streets, at arterial/collector intersections, or along portions of arterial streets with relatively shallow lots.

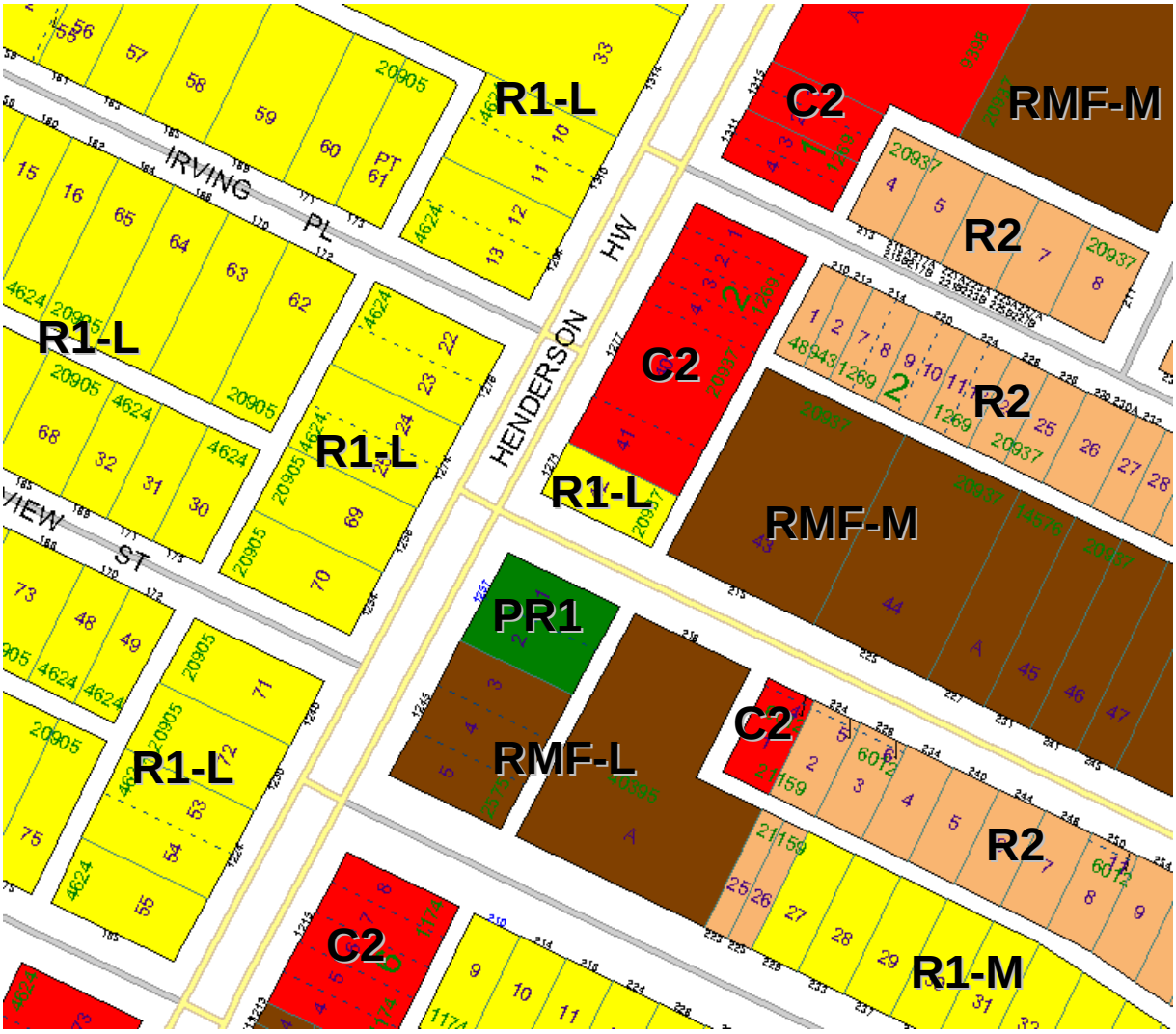


Figure 2: Zoning map of subject property and surrounding neighbourhood

- Section 62 of Zoning By-law No. 200/06 outlines all permitted and conditional uses in each zoning district.
    - In the “C2” district, typical commercial uses such as “retail sales” and “office” uses are permitted.
- Section 148 of the zoning by-law prescribes dimensional standards for the “C2” district.

	Min/Max Front Yard (ft.)	Min. Rear Yard (ft.)	Min. Interior Side Yard (ft.)	Min. Corner Side Yard (ft.)	Max. Height of Building (ft.)	Max. Floor Area Ratio
C2	0 / NA	25	0	0	49	3.0

Figure 3: Dimensional standards for the "C2" district

Land use by-law issues

- This administrative report only speaks to issues relating to the rezoning and subdivision of the subject property. Further discussion relating to the variance for a substandard rear yard will be addressed in the concurrent variance report.

Compatibility with the surrounding neighbourhood

- The Urban Planning Division is supportive of a commercial land use on the subject property for a number of reasons:
    - The Henderson Highway Corridor Secondary Plan, whose intent is to protect residential properties from commercial conversion, nonetheless makes allowances for the eventual commercial redevelopment of this block of Henderson between Edison and McKay.
    - It is the last remaining property on the block to be rezoned.
    - The proposed rezoning is similar in nature to previous applications approved by Council.
    - The expansion of the existing commercial strip mall is a logical proposal and is compatible with the surrounding neighbourhood.
- The Urban Planning Division is recommending that plan approval be included as a condition of approval. Plans submitted with the application are fairly basic; more detail should be provided prior to the applicant obtaining a building permit. A plan approval submission should include:
    - A detailed landscaping plan, including a plant list. A mix of both coniferous and deciduous landscaping should be provided to minimize the potential effects of disease and to provide year-round greenery to the site.
    - Building elevations should be provided indicating the use of multiple cladding materials to provide articulation to the front façade.
    - The applicant is strongly encouraged to consider opportunities to enhance pedestrian connections from Henderson to the front entrance of the building.
    - Details on any on-site fencing. Any fencing in front of the proposed building should be compatible with the existing fence.
    - Bicycle parking facilities should be provided.
- Previous rezonings have restricted automobile-oriented land uses, such as drive-thrus. It is worth noting that, under the existing Zoning By-law No. 200/06, drive-thrus are conditional uses in the "C2" district. Given that this level of scrutiny is already built in, there is no need to restrict this use in a zoning agreement. Other previously restricted uses,

such as “Auto/Light Truck/Motorcycle, Repair and Service”, are required to oblige with use-specific standards as prescribed in Part 4 of the zoning by-law.

- A restriction on excessive signage, such as mobile signs and advertising signs are also recommended as a condition in the zoning agreement to ensure the provision of an attractive Henderson Hwy streetscape.

RECOMMENDATION

The Urban Planning Division recommends approval of the proposed subdivision and rezoning, as the expansion of the existing commercial strip mall is a logical proposal that is compatible with the surrounding neighbourhood. However, a number of provisions are recommended as conditions of the approval to be included in the zoning agreement, which were elaborated upon in the section above.

This Report Submitted by: Michael Pyl
Planning, Property and Development Department
Urban Planning Division
Report Prepared by: PPD File # DASZ 39/2012

APPENDIX 'B'

Schedule "A" for File No. DASZ 39/12, East Kildonan-Transcona Community Committee, dated March 15, 2013.

By-Law No. _____

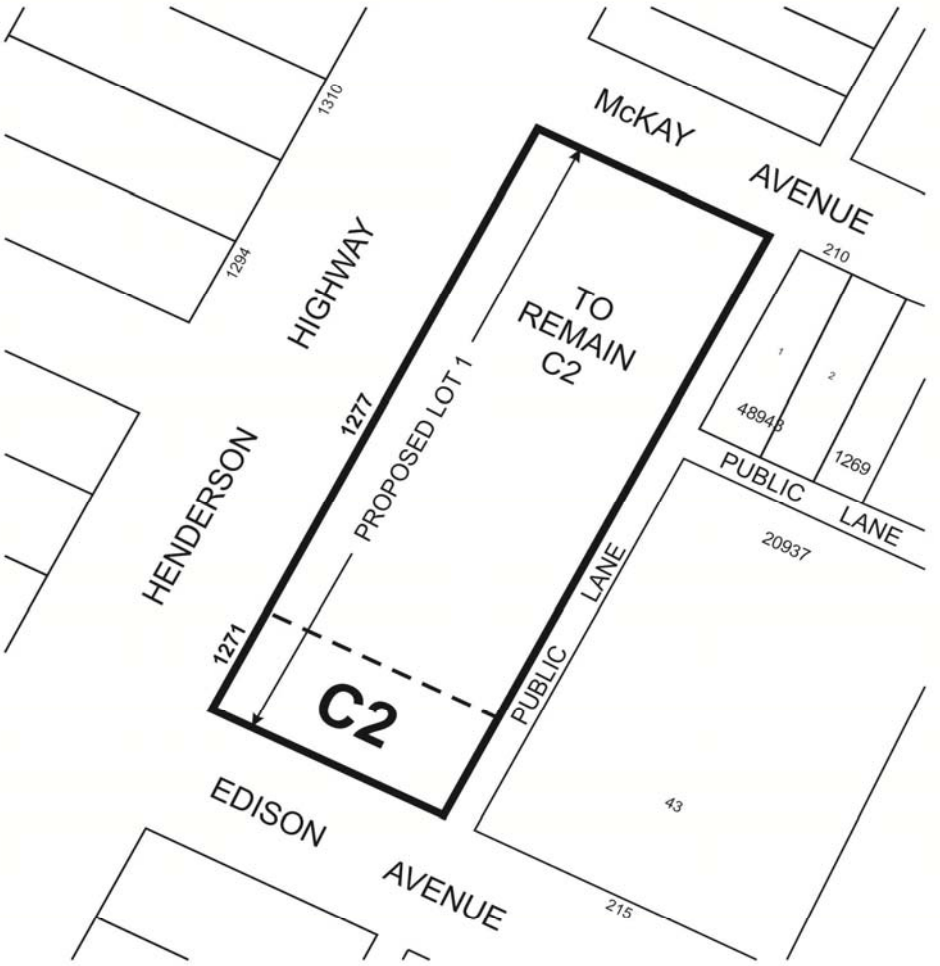
File No. **DASZ 39/12**

Atlas Sheet No. **U28**
EAST KILDONAN TRANSCONA COMMUNITY

N

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 1271 Henderson Highway from an "R1-L" RESIDENTIAL SINGLE FAMILY DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT and to be consolidated with the property adjacent to the north to allow for the construction of an addition to an existing commercial building as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____