Minute No. 628
Report - Standing Policy Committee on Property and Development - September 4, 2003

Item No. 8 Subdivision and Rezoning - 1847 Grant Avenue
File DASZ 13/2003

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the plan proposed under File DASZ 13/2003 be approved for preparation as a plan of survey by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 13/2003 dated June 24, 2003, for registration in the Winnipeg Land Titles Office, subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the City requiring the Developer to pay their share of the cost of the existing underground services in Grant Avenue on the basis of current Local Improvement rates along the railway right-of-way.

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

3. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 13/2003 dated June 24, 2003, to a "C2" Commercial District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to apply to the subject site and to contiguous land owned by the applicant to include the following conditions:

    A. That prior to the issuance of a development permit, plans showing the site layout, building elevations, parking and access, signage, site and exterior building lighting, garbage enclosures, and fencing and landscaping be submitted for the approval of the City Centre Community Committee.

    B. That no signs except facia signs and awning signs be located within the easterly 90 feet (27.4 metres) of the subject site.

    C. That a landscaped strip, with a minimum width of 10 feet (3.0 metres) be installed and maintained along the easterly property limit of proposed Parcel "A".

    D. That a privacy fence be installed and maintained along the east property limit of proposed Parcel "A" to the satisfaction of the Director of Planning, Property and Development.

Report - Standing Policy Committee on Property and Development - September 4, 2003

COUNCIL DECISION (continued):

4. That a ten percent (10%) 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 market value of the land.

5. 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 an extension of this time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

6. That the City Solicitor/Manager of Legal Services 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 execution by the City of Winnipeg of the Development Agreement.

8. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office when the Zoning Agreement has been filed by caveat as a first charge in the Winnipeg Land Titles Office against those lands 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 unless an extension of this time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

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 in the event that the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

Report - Standing Policy Committee on Property and Development - September 4, 2003

DECISION MAKING HISTORY:

Moved by Councillor Vandal,
That the recommendation of the Standing Policy Committee on Property and Development be adopted.

Carried

(Councillors Gerbasi, Smith and Steeves were recorded as having voted against this item in accordance with Section 50.7 of the Procedure By-law.)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 23, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development (who did not concur in the recommendation of the City Centre Community Committee) and submitted the matter to Council.

On September 17, 2003, the Executive Policy Committee laid over consideration of the matter to a Special Meeting to be held at the call of the Chairperson.

STANDING COMMITTEE RECOMMENDATION:

On September 4, 2003, the Standing Policy Committee on Property and Development did not concur in the recommendation of the City Centre Community Committee, and concurred in the administrative recommendation as amended, namely:

- Recommendation 1.
  Delete the words “of subdivision” in line 1. Replace the word “subdivision” with “survey” in line 2.
- Recommendation 1.A
  Amend by adding the following words after the words Local Improvement rates “along the railway right-of-way”
- Recommendation 3.C
  Replace the word “westerly” with “easterly”.
- Delete Recommendation 3.D in its entirety and substitute the following:
  3.D That a privacy fence be installed and maintained along the east property limit of proposed Parcel “A” to the satisfaction of the Director of Planning, Property and Development,

and submitted the matter to Executive Policy Committee and Council**.**

Report - Standing Policy Committee on Property and Development - September 4, 2003

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION:

On July 8, 2003, the City Centre Community Committee did not concur in the administrative recommendation, recommended that the subdivision and rezoning proposed under File DASZ 13/2003 not be proceeded with, and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Zoning - 1847 Grant Avenue**
File DASZ 13/2003

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

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

Report date: **July 14, 2003**

COMMUNITY COMMITTEE RECOMMENDATION:

The City Centre Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development that the plan of subdivision and rezoning proposed under File DASZ 13/2003 not be proceeded with.

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

1. Approval of the application would remove the possibility of any future development of the site as green space or for trails.

2. Approval of the application would also remove any possibility for the City to develop the site in a manner that the adjacent residential neighbourhood would appreciate

PUBLIC HEARING SUMMARY

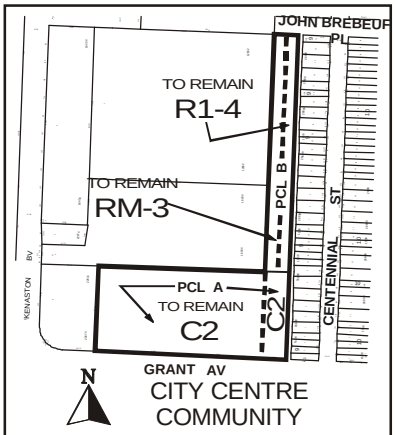
File: DASZ 13/2003

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

Public Hearing: July 8, 2003
West Committee Room
Council Building
510 Main Street

Applicant: Pollock and Wright Land Surveyors (Al Degner)
117 Fort Street
Winnipeg, MB R3C 1C6

Subject:



CITY CENTRE
COMMUNITY

APPLICANT : POLLOCK &
WRIGHT LAND SURVEYORS
FILE : DASZ 13/03
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. 6400/94 by rezoning the land shown outlined above from a "C1" COMMERCIAL DISTRICT, an "R1-4" SINGLE-FAMILY DISTRICT and an "R2" TWO-FAMILY DISTRICT to a "C2" COMMERCIAL DISTRICT to allow for commercial development.
For information, phone Mr. R. Mitchell, Planner at 986-5017.

Premises Affected: 1847 Grant Avenue

Exhibits Filed:

1. Application dated May 29, 2003
2. Advertising Notice dated June 16, 2003
3. Manitoba Status of Title 1930722
4. Letter of Authorization from Harold Sweetland, Asset Manager, Railway Properties Canadian National Railway Company to Pollock and Wright Land Surveyors dated April 29, 2003
5. Atlas Sheet AD 20
6. Site Plan
7. Report from the Manager of Planning and Land Use dated June 16, 2003
8. Photographs of the Site and Inspection Notice
9. Partial Site Plan for the site submitted at the Public Hearing by Arni Thorsteinson
10. Written presentation in opposition to the application submitted and read into the record by Catherine Geddes
11. Written presentation in opposition to the application submitted and read into the record by Douglas Geddes
12. Written presentation in opposition to the application submitted and read into the record by Ken Klassen

REPRESENTATIONS:

In Support:

Jim Watling
Al Degner
Arni Thorsteinson

In Opposition:

Phyllis and Joe Doran
Catherine and Douglas Geddes
Ken Klassen
Bob Matias
Mr. M. Scotten
Linda Tuchiwsky

For the City:

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

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Al Degner, appearing in support of the application, requested that the following amendments be made to the administrative report:

- Delete the words "of subdivision" in line 1 of I
- Delete the word "subdivision" in line 2 of I and replace with the word "survey"
- Add the words "along the railway right-of-way" at the end of I.A.
- Delete the word "westerly" in line 2 of III.C. and substitute the word "easterly"
- Delete the words "6.5 feet" in line 1 of III.D. and substitute the words "2.5 feet light proof fencing with extensive landscaping"
- Delete the word "west" in line 3 of III.D. and substitute the word "east"
- Add the word "rezoned" before the word land in the second line of IV.

He advised that Mr. Thorsteinson had agreed to purchase the subject land between Grant Avenue and John Brebeuf Place subject to approval of a zoning change to the same category as the adjacent mall. He noted that there were no real concerns to the conditions outlined in the administrative report other than the requirement for a 6.5-foot privacy fence along the lane.

Mr. Degner indicated that the centre line has been used as the split between the residential and commercial designations, however, in this case there are three different zoning designations. He noted CN was not in agreement with further development along Grant Avenue but rather would like the property added to the adjacent commercial land to the west resulting in the entire site having the same zoning designation.

Arni Thorsteinson, appearing in support of the application, submitted a Site Plan prepared by David Goyer Architecture Inc. for the Kenaston Village Expansion filed as Exhibit 9, and suggested that approval of a rezoning to the lane would do away with the current "no man's land". He suggested that a buffer fence and landscaping could be created along the lane. He also noted that the new addition would be 9,000 square feet.

Mr. Thorsteinson advised that no traffic would be able to access the public lane from the parking area as there would be a new access to Grant Avenue. With respect to the balance of the property from Grant Avenue to John Brebeuf Place, he suggested it would probably remain status quo and be properly maintained and, as it was in a separate title, could be sold given some interest had been expressed by some of the residents with respect to acquisition at the right price. He noted that not all of the existing trees could be preserved.

Catherine Geddes, appearing in opposition to the application, submitted and read into the record a prepared presentation filed as Exhibit 10.

Douglas Geddes, appearing in opposition to the application, submitted and read into the record a prepared presentation filed as Exhibit 11.

Ken Klassen, appearing in opposition to the application, submitted and read into the record a prepared presentation filed as Exhibit 12.

Mr. Thorsteinson advised that the addition was 90 feet wide and the exterior of the existing building goes back 100 feet in depth.

Jim Watling, appearing in support of the application, advised that the railway was simply selling the land, not doing any development. He indicated that the entire corridor was for sale and being marketed.

He also indicated that a high lightproof fence to offset noise and lighting would be installed. Mr. Thorsteinson noted that the fencing would cover 315 feet and would consist of a 2 ½-foot lightproof fence with landscaping on the interior.

In reply please refer to / Référence à rappeler : Ross Mitchell

(204) 986-5017
Fax / Téléc. : (204) 986-3684

File No. DASZ 13/03 June 16, 2003
Our c/f CP 500 (.616)

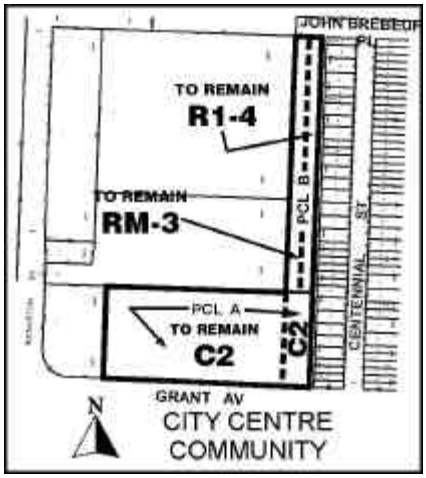
Ms. Carol Freeman, Clerk
City Centre Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Freeman:

SUBDIVISION AND REZONING
Land located on the north side of Grant, between Kenaston and Centennial.
City Centre Community
File No. DASZ 13/03

An application has been received from Pollock and Wright Land Surveyor (Al Degner) for approval of a plan of subdivision and related zoning change to Zoning By-Law No. 6400/94 by rezoning the subject lands from a "C1" Commercial District, a "R2" Two-Family Residential District, and a "R1-4" Single-Family Residential District to a "C2" Commercial District to allow for commercial development.

RELATED FILES: N.A.



SITE DESCRIPTION:

Site Area: Area to be rezoned: 28,350 square feet approx.

Existing Land Use and Zoning: Abandoned rail right-of-way (CN Oak Point Subdivision)

Surrounding Land Use and Zoning:

North: Condominium apartments zoned "RM-3" Multiple-Family Residential District
South: Across Grant, Westfair Superstore zoned "C2" Commercial District
East: Across public lane, Houses zoned "R1-4" Single-Family Residential District and commercial building fronting Grant zoned "C1" Commercial District (Subway and Fabutan)
West: Kenaston Village Mall shopping centre zoned "C2" Commerical District

DEVELOPMENT DESCRIPTION:

The subject property is that portion of the abandoned CN Oakpoint rail line running between Grant Avenue on the south and John Brebeuf Place on the north. CN Rail has sold this portion of the surplus rail lands to a company named Lanesborough Real Estate Investment Trust. The entire parcel measures 90 feet wide along Grant, by about 1,250 feet deep (from Grant to John Brebeuf). It is proposed to consolidate the rail lands with the adjoining commercial property on the west containing the Kenaston Village Mall. It is then proposed to subdivide the consolidated lands into two parcels, Parcels "A" and "B". Parcel "A" would contain the Kenaston Village Mall development and the immediately adjoining 315 feet (perpendicular depth from Grant) of abandoned rail line. Parcel "B" would contain the remainder of the rail line lands to John Brebeuf Place. The residual portion of the rail line would front onto John Brebeuf, which is an unimproved street stub west of Centennial Street.

The subject rezoning only involves that portion of the abandoned rail line to be consolidated with the shopping centre site. As zoning boundaries fall in the middle of rights-of-way and utility corridors, the west half of the rail line is already zoned "C2" for a depth of 315 feet in perpendicular depth from Grant, the zoning of the shopping centre lands. The subject application would rezone the east half of the rail line (for a depth of 315 feet from Grant) from "C1", "R2", and "R1-4" to "C2". The balance of the rail line to John Brebeuf would retain its current "RM-3" (west half) and "R1-4" (east half) zoning.

It is proposed to use the rezone rail line to "C2" to enable the easterly extension of the shopping centre retail building and parking area. The current site plan show a 9,080 square foot building expansion, and parking for 58 additional cars. The building expansion would permit up to 3 additional rental units. The east wall of the building addition would be setback approximately 46.3 feet from the east property limit (public lane), within which would be located, from west to east, a sidewalk beside the building, a drive aisle, a row of parking stalls, and a fence. At the back of the proposed addition would be a garbage enclosure, a drive aisle, and two rows of

parking. It is proposed to shift the most easterly Grant Avenue approach further to the east, to within 20.5 feet of the Centennial laneway. No changes are proposed to the approach at northeast corner of the site at the rear of the development.

PLAN WINNIPEG:

The application complies with Plan Winnipeg.

ADMINISTRATIVE COMMENTS:

The Neighbourhood Branch supports the proposed rezoning and subdivision subject to the conditions outlined below, including the preservation of existing trees along the east property limit.

RECOMMENDATION:

I. That the plan of subdivision proposed under File No. DASZ 13/03 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 13/03, attached hereto and dated June 24, 2003, for registration in the Winnipeg Land Titles Office, subject to the following:

   A. That the Developer be required to enter into a Servicing Agreement with the City requiring the Developer to pay their share of the cost of the existing underground services in Grant Avenue on the basis of current Local Improvement rates.

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

III. That Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File No. DASZ 13/03, attached hereto and dated June 24, 2003, to a "C2" Commercial District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to apply to the subject site and to contiguous land owned by the applicant to include the following conditions:

   A. That, prior to the issuance of a development permit, plans showing the site layout, building elevations, parking and access, signage, site and exterior building lighting, garbage enclosures, and fencing and landscaping be submitted for the approval of the City Centre Community Committee.

   B. That no signs except facia signs and awning signs be located within the easterly 90 feet (27.4 metres) of the subject site.

C. That a landscaped strip, with a minimum width of 10 feet (3.0 metres) be installed and maintained along the westerly property limit of proposed Parcel "A".

D. That a privacy fence with a minimum height of 6.5 feet (1.98 metres), a 2 foot (0.6 metre) lane offset, and posts with a minimum size of 0.5 feet square, be installed and maintained along the west property limit of proposed Parcel "A".

IV. That a 10 percent 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 market value of the land.

V. 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 an extension of this time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

VI. That the City Solicitor be requested to prepare the necessary by-law in accordance with the above.

VII. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

VIII. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office when the Zoning Agreement has been filed by caveat as a first charge in the Winnipeg Land Titles Office against those lands **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 u**nless an extension of this time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

IX. 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.

X. In the event that the necessary City of Winnipeg mylar approval signatures have not been secured within 24 months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

Yours truly,
C. Knoll
Acting Manager of Planning and Land Use

_____

Per: Ross Mitchell , Senior Planner
(City Centre and Assiniboia Communities)
986-5017

/jc

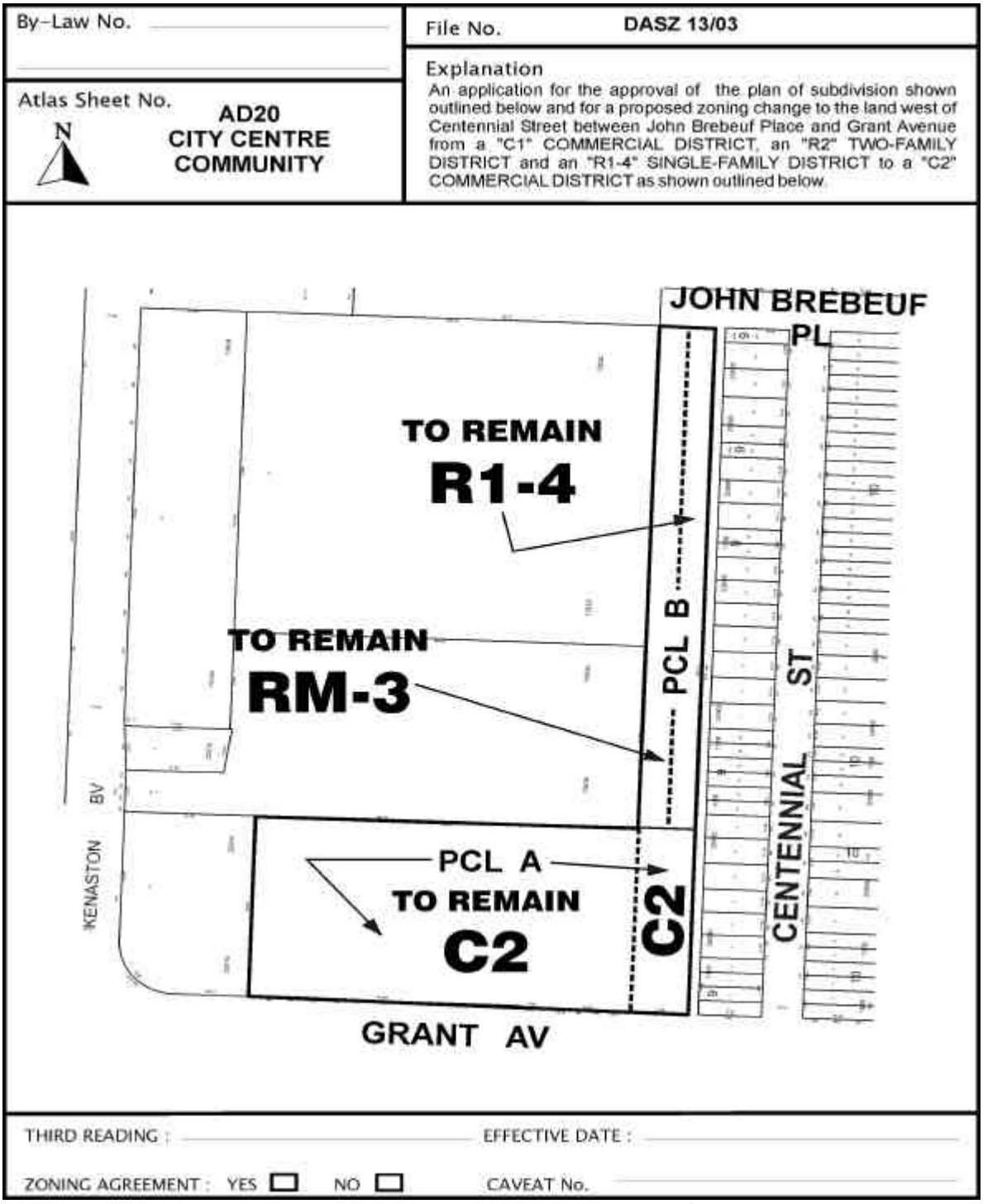


Figure 1: Schedule "A" to the report to the City Centre Community Committee for File No. DASZ 13/03 dated June 24, 2003.



Figure 2: Looking east to Centennial back lane (note trees).



Figure 3: Looking southeast to Grant.