Minute No. 629
Report - Standing Policy Committee on Property and Development - September 4, 2003

Item No. 9 Subdivision and Rezoning - 624 Academy Road
File DASZ 14/2003

COUNCIL DECISION:

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

1. That the plan of subdivision proposed under File DASZ 14/2003 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 14/2003 dated June 25, 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 Academy Road across the rail land frontage on the basis of current Local Improvement rates.

    B. That the plan be amended to show a 7.0 feet (2.134 metres) widening to Academy Road across the north limit of the subject property at no cost to the City.

    C. That the plan be amended by removing Lot 47, Plan 1538, from the subdivision area.

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 14/2003 dated June 25, 2003, to a "C1" 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 the maximum height of buildings and structures on the property be limited to two (2) storeys.

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COUNCIL DECISION (continued):

C. That access to the Lockwood public lane from the property be prohibited.

D. That no signs except fascia and awning signs be located on the subject site (proposed Parcel "A").

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

F. That a 10 foot (3.05 metre) landscaped side yard be provided along that portion of the west property limit adjacent to 630 Academy Road.

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 rezoned land and the creation of one additional building lot.

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.

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COUNCIL DECISION (continued):

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.

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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:

- Delete Recommendation 3.D in its entirety and substitute the following:

  3.D That a privacy fence be installed and maintained along the west 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.

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 14/2003 not be proceeded with, and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning - 624 Academy Road**
File DASZ 14/2003

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

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

Report date: **July 15, 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 14/2003 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 14/2003

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:



APPLICANT : POLLOCK & WRIGHT LAND SURVEYORS
FILE : DASZ 14/03
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 an " R1-5.5" SINGLE-FAMILY DISTRICT and an "R2A" TWO-FAMILY DISTRICT to a "C1" COMMERCIAL DISTRICT to allow for commercial development. **For information, phone Mr. R. Mitchell, Planner at 986-5017.**

Premises Affected: 624 Academy Road

Exhibits Filed:

1. Application dated May 29, 2003
2. Advertising Notice dated June 10, 2003
3. Manitoba Status of Titles 1156817 and 1930711
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. Letter of Authorization from Jose Corporation Ltd. to Pollock and Wright Land Surveyors dated May 13, 2003
6. Atlas Sheet AC 20
7. Site Plan
8. Report from the Manager of Planning and Land Use dated June 25, 2003
9. Photographs of the Site and Inspection Notice

REPRESENTATIONS:

In Support:

Jim Watling
Al Degner
Johnathon Fulop

In Opposition:

Morgan Fines
Ken Klassen
Mary Lou Malzer

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, advised that there was concurrence with the recommendations in the administrative report with the exception of III. C. E. and F.

Johnathon Fulop, appearing in support of the application, advised that a 10-foot fence would hide the existing mural. He indicated that the intention was to expand the existing strip shopping centre at some time in the future.

Morgan Fines, appearing in opposition to the application, advised that approval of the application would cut the corridor off for people wanting to go through to Polo Park and suggested that both ends need to be kept open.

Ken Klassen, appearing in opposition to the application, suggested that the railway should be looking only for a fair value for purchase of the right-of-ways. He indicated that mediation between the City and the railway should be sought and an application made under the Canadian Transportation Act for a review to determine fair price for the land. He noted that land costs in Winnipeg were relatively low and there was an opportunity to develop the railway right-of-way at a low cost.

Mr. Degner indicated that nothing was going to stop the railway from selling the land and that each piece of property was held in a separate title.

In reply please refer to / Référence à rappeler :

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

File No. DASZ 14/03 June 25, 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:

SUBDIVISION AND REZONING
Land located on the south side of Academy between Lockwood and Centennial.
City Centre Community
File No. DASZ 14/03

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 “R2-A” Airport Area Two-Family Residential District and a “R1-5.5A” Airport Area Single-Family Residential District to a “C1” Commercial District to allow for commercial development.

RELATED FILES: N.A.



SITE DESCRIPTION:

Site Area: Area to be rezoned: 13,000 square feet approx. (0.3 ac.)

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

Surrounding Land Use and Zoning:

North: Across Academy, RCMP forensic building zoned "C2" Commercial District
South: Abandoned rail line zoned "R1-5.5A" and "R1-4A" Single-Family Residential District
East: Commercial development fronting Academy zoned "C1" Commercial District
West: Two-Family dwelling zoned "R2-A" and single-family housing fronting Lockwood zoned "R1-5.5A"

DEVELOPMENT DESCRIPTION:

The subject property is that portion of the abandoned, 90-foot wide CN Oakpoint rail line running south from Academy for a perpendicular distance of about 130 feet, the depth of the existing commercial lots to the east. CN Rail has sold this portion of the surplus rail lands to the owner of the adjacent commercial property to the east, conditional upon successful rezoning. The proposal is to consolidate the subject lands with the larger property that currently contains a commercial strip with parking in the rear (612-620 Academy). The subject property is grassed and contains the old rail bed. The property is treed along the west property limit. There is no proposal from CN to rezone or develop the residual portion of the rail line running south to Kingsway and Corydon Avenue beyond.

The subject rezoning only involves that portion of the abandoned rail line to be consolidated with Lot 47 of the adjacent commercial development. As zoning boundaries fall in the middle of rights-of-way and utility corridors, the west half of the subject property is zoned "R2-A" and "R1-5.5A", while the east half of the subject property is already zoned "C1" Commercial District. The subject application would rezone the west half of the property to "C1" Commercial District.

The owner of 612/620 Academy, and potential owner of the subject site, has no immediate plans for the use of the additional land. Figure #2 shows a conceptual site plan. Access is restricted to Academy Road between the existing strip centre at 620 Academy and a proposed pad site on the subject site. Parking for 21 vehicles is shown at the rear of the pad site. Another development option would be a westerly extension of the existing strip centre at 620 Academy. However, this would destroy an existing mural on the west end of 620 Academy. In terms of vehicular access, the property has been granted an Academy approach, and access to Centennial is available through the parking lot behind 612-620 Academy. In terms of potential building area on the subject site, the proposed parking for 21 vehicles would permit, by right, a gross retail floor area of 5,250 square feet, a gross office floor area of 15,750 square feet, or a gross restaurant area of 2,100 square feet. The above uses could also be combined in separate units.

The neighbouring development at 612/620 Academy is comprised of two separate buildings. The building at 620 Academy is two-storey with an apartment on the second floor and a bakery and pizzeria on the main floor. The building at 612 Academy is one-storey, and contains a veterinarian, a shoe store, a flower shop, a sewing centre, and a cosmetician. Parking is provided at the back for 29 vehicles.

PLAN WINNIPEG:

The application complies with Plan Winnipeg.

ADMINISTRATIVE COMMENTS:

The Neighbourhood Planning Branch supports in principle the subject rezoning for the following reasons:

- Academy Road is a Regional Street, with a commercial character in the vicinity of the subject site.
- The residential property to the east at 630 Academy backs onto the subject site and will not be adversely affected by the proposed development.
- Commercial traffic and pedestrian activity can be directed to Academy Road.
- The site can be developed in such a way as to mitigate any impacts on the surrounding residential area.

The principal issue regarding the proposed development is vehicular access. In addition to Centennial Street, the enlarged site could have access to Academy Road and to Lockwood Street via the public lane. The Public Works Department would prefer access to the Lockwood public lane rather than the approved Academy approach. Access to Lockwood is advantageous because the traffic signals at the Academy/Kenaston off-ramp would provide breaks in flow, thereby facilitating turning movements, and the use of Lockwood would reduce congestion at the Centennial/Academy intersection.

The conceptual site plan for the subject property illustrates a bi-directional approach onto Academy between the existing strip centre at 620 Academy and the new pad site to the west. No access is shown to the Lockwood public lane. The Neighbourhood Planning Branch would support this proposed site plan with the conditions listed below.

RECOMMENDATION:

I. That the plan of subdivision proposed under File No. DASZ 14/03 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with

Schedule "A" for File No. DASZ 14/03, attached hereto and dated June 25, 2003, for registration in the Winnipeg Land Titles Office, subject to the following:

D. 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 Academy Road across the rail land frontage on the basis of current Local Improvement rates.

E. That the plan be amended to show a 7.0 feet (2.134 metres) widening to Academy Road across the north limit of the subject property at no cost to the City.

F. That the plan be amended by removing Lot 47, Plan 1538, from the subdivision area.

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 14/03, attached hereto and dated June 25, 2003, to a "C1" 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 the maximum height of buildings and structures on the property be limited to 2 storeys.

C. That access to the Lockwood public lane from the property be prohibited.

D. That no signs except fascia and awning signs be located on the subject site (proposed Parcel "A").

E. That a privacy fence with a minimum height of 6.5 feet (1.98 metres) and minimum post size of 0.5 feet square, be installed and maintained along the west property limit of proposed Parcel "A".

F. That a 10-foot (3.05 metre) landscaped side yard be provided along that portion of the west property limit adjacent to 630 Academy Road.

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 rezoned land and the creation of one additional building lot.

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

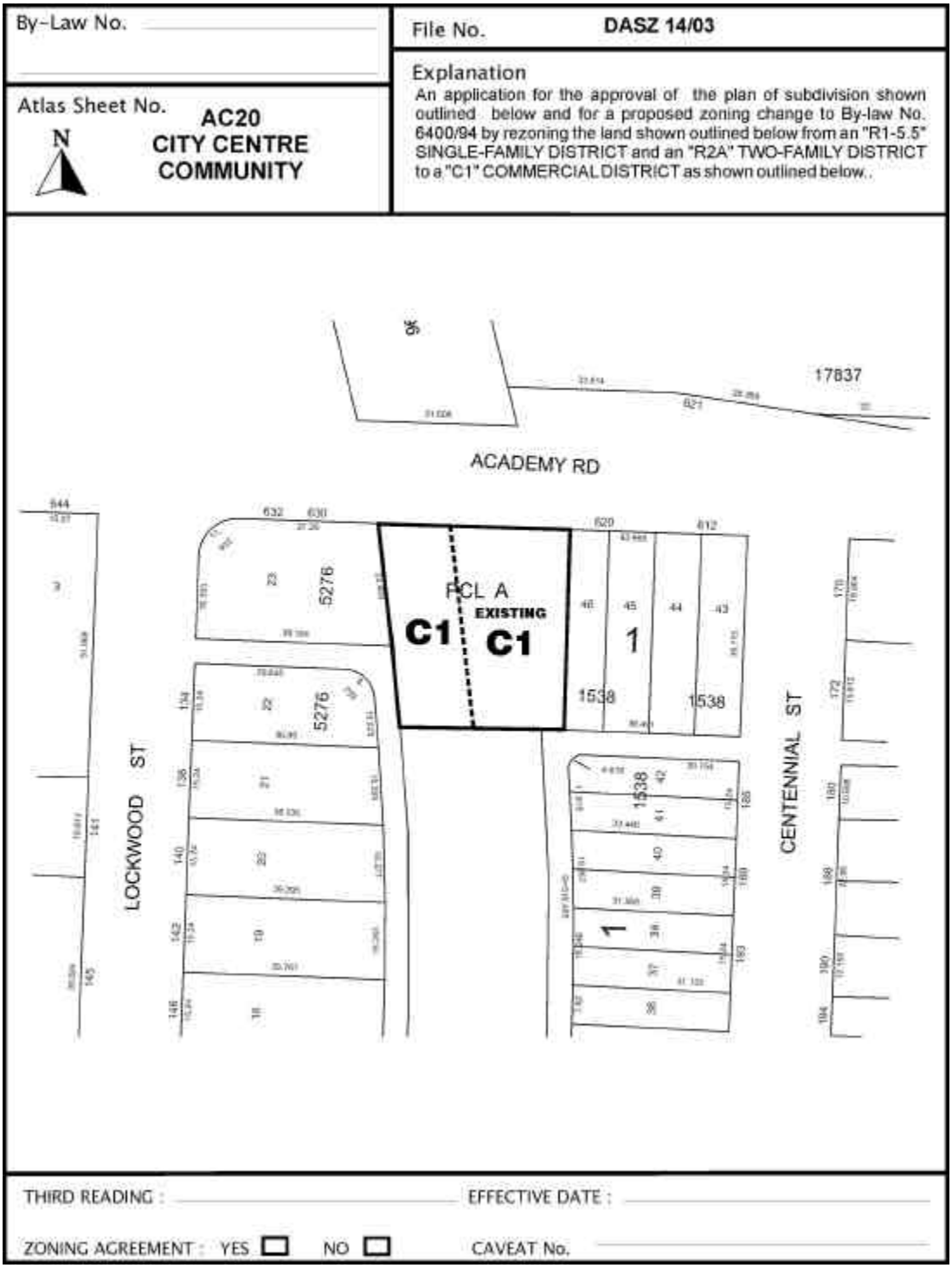


Figure 1: Schedule "A" to the report to the City Centre Community Committee for File No. DASZ 14/03 dated June 25, 2003.

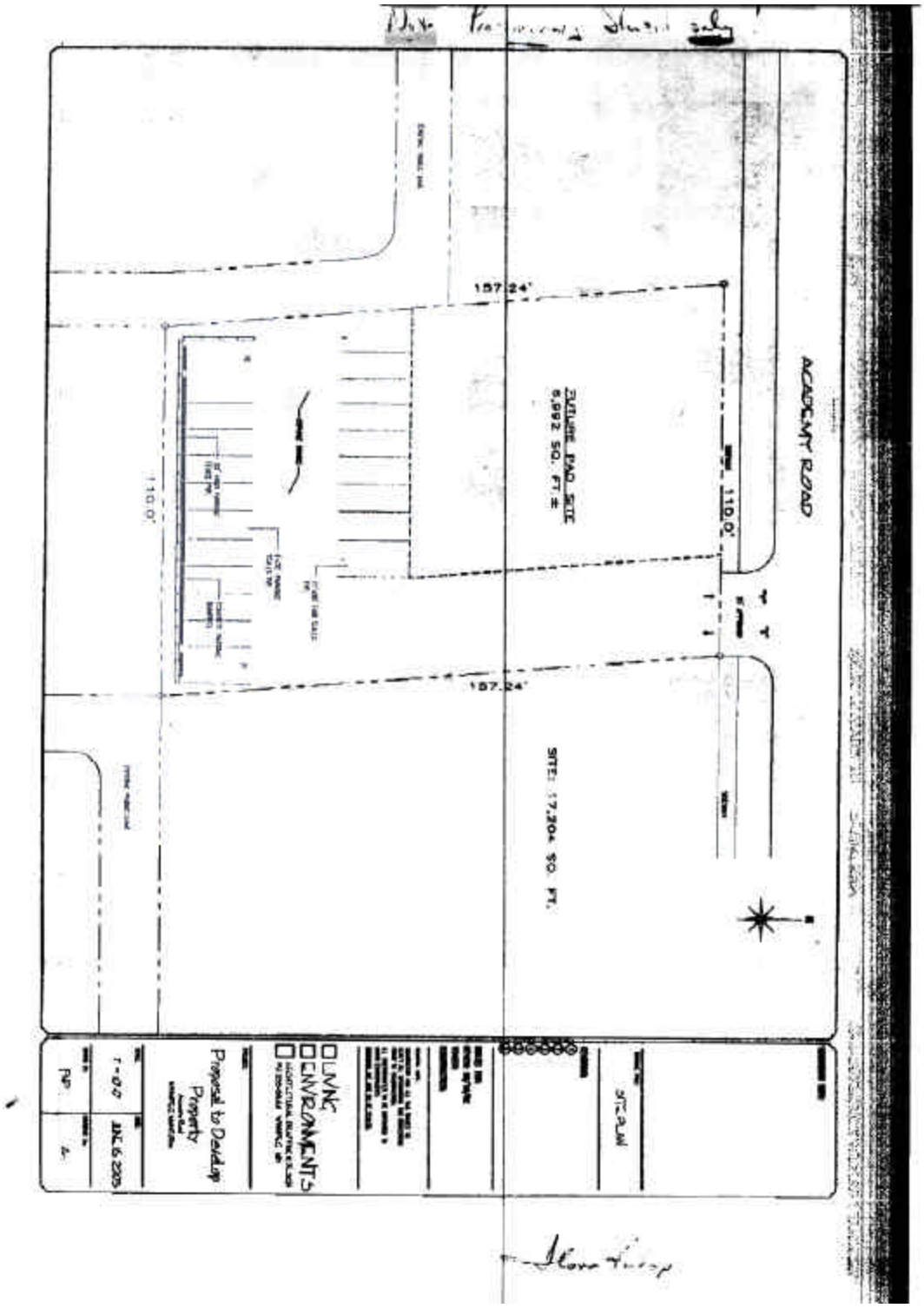


Figure 2: Conceptual Site Plan

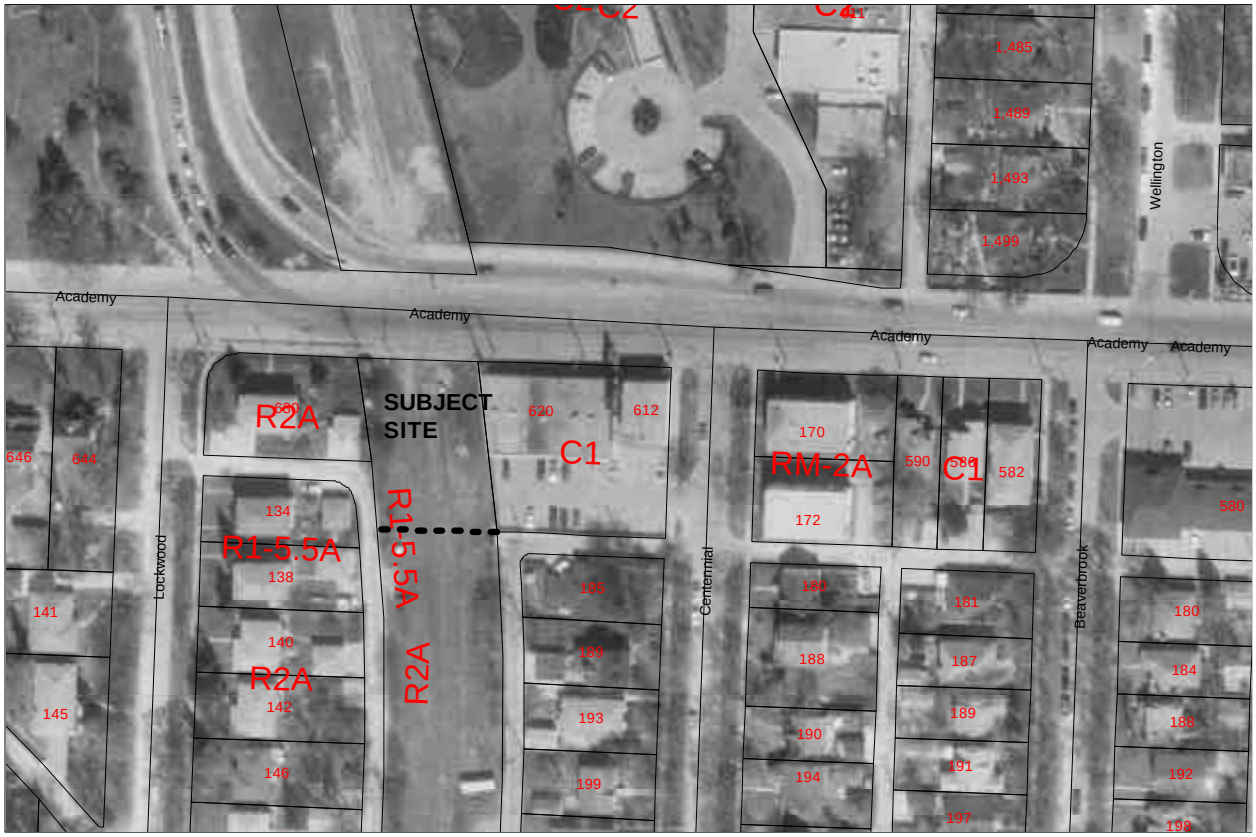


Figure 3: Aerial Photo of Site.



Figure 4: 620 Academy.



Figure 5: 612 Academy.



Figure 6: Looking south from Academy.



Figure 7: Looking west from 620 Academy parking lot.



Figure 8: Looking northwest towards Academy (note trees).