Minute No. 648
Report - Standing Policy Committee on Property and Development – September 7, 2004

Item No. 18 Rezoning - 104 Hespeler Avenue
File DAZ 227/2004

COUNCIL DECISION:

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

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 227/2004 dated June 18, 2004, from an "R1-3" Single-Family District and a "C1" Commercial District to a "C1.5" Commercial District subject to the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter, to provide for the following:

   A. That for the development of any building, accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the 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.

   B. That land usage be restricted as follows:

      i. The following uses shall NOT be permitted on the land:

         a. Auction room
         b. Automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts
         c. Automobile, including motorcycle: supplies/parts, sales
         d. Beer: sales
         e. Bingo parlour
         f. Boat: sales, service
         g. Bowling alley
         h. Building materials, hardware, home improvement supplies or equipment: sales
         i. Bus station
         j. Cocktail lounge

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COUNCIL DECISION (continued)

k. Exterminator
l. Fuel: sales kiosk
m. Hotel, including motel, limited to guest rooms
n. Liquor: sales
o. Parking area, non-accessory
p. Tattoo parlour
q. Tire: sales, service

C. The following signs are prohibited on the "C1.5" land:

i. Free-standing signs in excess of twenty (20) feet in height.
ii. Mobile advertising signs, except for a period of fourteen (14) days upon issuance of a new occupancy permit.
iii. Flashing or scintillating signs.

D. That no illuminated signage be erected on the south or east side of the building.

E. That no ingress/egress be allowed directly from Hespeler Avenue.

F. That a twenty (20) foot front yard adjacent to a building and Hespeler Avenue be maintained as a landscaped strip.

G. That a five (5) foot front yard adjacent to a parking area and Hespeler Avenue be maintained as a landscaped strip.

H. That prior to the issuance of any permits all garbage containers be fully enclosed by a brick/concrete and/or wood barrier fence that is at least six (6) inches above the top of the garbage containers, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development;

2. 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 the market value of the land.

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COUNCIL DECISION (continued)

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months 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 this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat as a 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.

5. That the Proper Officers of the City be authorized to execute said Zoning Agreement.

6. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

7. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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DECISION MAKING HISTORY:

Moved by Councillor Pagtakhan,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 22, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 7, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 29, 2004, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 104 Hespeler Avenue**
File DAZ 227/2004 [c/r DAV 121758D/2004]

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

Prepared by: **Inga Skundberg, Clerk**
East Kildonan-Transcona Community Committee

Report date: **July 8, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 29, 2004, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 227/2004 dated June 18, 2004, from an "R1-3" Single-Family District and a "C1" Commercial District, to a "C1.5" Commercial District subject to the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter, to provide for the following:

    A. That for the development of any building, accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the 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;

    B. That land usage be restricted as follows:

        i. The following uses shall NOT be permitted on the land:

            a. Auction room
            b. Automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts
            c. Automobile, including motorcycle: supplies/parts, sales
            d. Beer: sales
            e. Bingo parlour
            f. Boat: sales, service
            g. Bowling alley

h. Building materials, hardware, home improvement supplies or equipment: sales
i. Bus station
j. Cocktail lounge
k. Exterminator
l. Fuel: sales kiosk
m. Hotel, including motel, limited to guest rooms
n. Liquor: sales
o. Parking area, non-accessory
p. Tattoo parlour
q. Tire: sales, service

C. The following signs are prohibited on the "C1.5" land:

i. Free-standing signs in excess of twenty (20) feet in height.

ii. Mobile advertising signs, except for a period of fourteen (14) days upon issuance of a new occupancy permit.

iii. Flashing or scintillating signs.

D. That no illuminated signage be erected on the south or east side of the building.

E. That no ingress/egress be allowed directly from Hespeler Avenue.

F. That a twenty (20) foot front yard adjacent to a building and Hespeler Avenue be maintained as a landscaped strip.

G. That a five (5) foot front yard adjacent to a parking area and Hespeler Avenue be maintained as a landscaped strip.

H. That prior to the issuance of any permits, all garbage containers be fully enclosed by a brick/concrete, and/or wood barrier fence that is at least six (6) inches above the top of the garbage containers, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development;

2. That a 10 per cent (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 the market value of the land.

3. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months 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 this twenty-four (24) month period and the extension is subsequently approved by Council.

4. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat as a 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.

5. That the Proper Officers of the City be authorized to execute said Zoning Agreement.

6. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

7. That the City Solicitor/Manager of Legal Services 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 for its recommendation:

1. The application for a zoning change from residential to commercial is a minimal variation to the neighbouring area.

PUBLIC HEARING SUMMARY

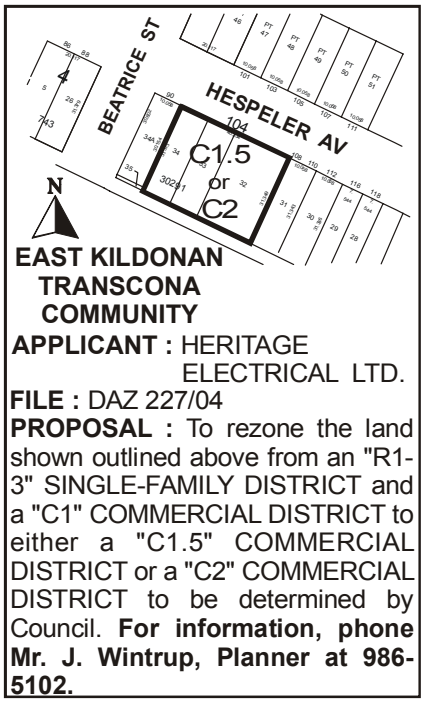
File: DAZ 227/2004 [c/r DAV 121758D/2004]

Before: East Kildonan-Transcona Community Committee
Councillor Wyatt, Chairperson
Councillor Lubosch
Councillor Thomas

Public Hearing: June 29, 2004
Community Committee Chamber
755 Henderson Highway

Applicant: Jack Marinic
Heritage Electrical Ltd.

Subject:



Premises Affected: 104 Hespeler Avenue

Exhibits Filed:

1. Application dated April 30, 2004
2. Notification of Public Hearing dated May 4, 2004
3. Manitoba Status of Titles 1335093, 1335095, 1335097
4. Surveyor's Building Location Certificate and Sketch dated October 2, 1992
5. Letter of authorization dated March 7, 2004 from The Church (of the Saints) in Winnipeg, Inc. to Heritage Electric Ltd.
6. Sketch
7. Report from the Manager of Planning and Land Use dated June 18, 2004
8. Inspection Report

REPRESENTATIONS:

In Support:

Jack Marinic

In Opposition:

Nil

For Information:

Nil

For the City:

Mr. J. Wintrup, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Jack Marinic appeared in support of the application and indicated that he would prefer that the subject property be rezoned to a "C2" Commercial District, as opposed to the restrictions of a "C1.5" Commercial District.

Councillor Thomas indicated that rezoning the subject property to a "C1.5" Commercial District would be a more compatible fit with the residential community. She commented that if the property were rezoned to a "C2" Commercial District, she would have concerns if the property were to be sold and what the new property owners' intent would be for the property. She indicated concerns about the extent of commercial development and its impact on the neighbouring residential area if it were rezoned to a "C2" designation.

John Wintrup, Planner, City of Winnipeg, explained the basis for the suggested restrictions on the subject property. In this connection, he indicated that the applicant's intended use for the property as an electrical contractor is not an intensive use and is deemed to fit well with the community. He further indicated that a "C1.5" designation allows for other uses as well.

Exhibit "7" referred to in File DAZ 227/2004 [c/r DAV 121758D/2004]

In reply please refer to / Référence à rappeler :

John S. Wintrup
(204) 986-5102
Fax / Téléc. : (204) 986-3684

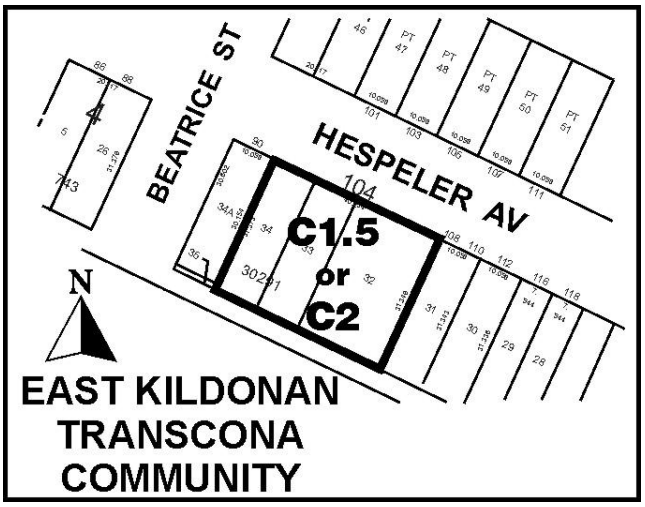
File No. DAZ 227/04 (c/r DAV 04-121758/D) June 18, 2004
Our c/f CP 500 (.409)

Ms. Inga Skundberg, Community Clerk
East Kildonan – Transcona Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Skundberg:

REZONING
104 Hespeler Avenue
East Kildonan - Transcona Community Committee
File No. DAZ 227/04

An application has been received from Jack Marinic to amend By-Law No. 6400/94 by rezoning the land shown below from a "R1-3" Single Family Residential and "C1" Commercial Districts to a "C1.5" or "C2" Commercial District for commercial uses.



SITE DESCRIPTION:

Site Area: 0.311 acres (1,261.84 square metres)

Existing Land Use and Zoning: A one story building formerly used as a church and zoned "R1-3". The accessory parking area is zoned "C1".

Surrounding Land Use and Zoning:

North: Across Hespeler Avenue, single family dwellings zoned "R1-3"
South: Across public lane, Elmwood Cemetery zoned "A-5".
East: Single family dwellings zoned "R1-3"
West: Commercial building zoned "C1"

DEVELOPMENT DESCRIPTION:

The applicant is proposing to convert the former Church of the Saints into a contractors' establishment. Plans submitted indicate that 1,000 square feet will be used as 'office' space and the remaining 1,500 square feet will be used for the storage of electrical equipment and tools. Contractors will arrive each day to pick up materials, work orders, etc. and then attend jobs sites at other locations in the city. Pick up trucks and vans will be used by the contractors. Persons will work in the office to administer the business.

PLAN WINNIPEG:

The proposed concept complies with Plan Winnipeg in that a commercial rezoning is allowed in Neighbourhood Policy Areas.

ADMINISTRATIVE COMMENTS:

The Planning and Land-Use Division supports the rezoning application. The Division is advising a "C1.5" Commercial District.

There are only slight differences between "C1" and "C1.5" commercial zones. A "C1.5" zoning category generally allows a few additional uses as permitted and conditional, which are not in "C1". The "C1" is the most restrictive commercial zoning category in limiting the number of uses whereas the "C2" is the most liberal. A "C1.5" falls between the two but is closer to "C1" than "C2".

A "C1" Commercial District is intended to provide for local commercial uses typically found within neighbourhoods. These land-uses tend to cater to the local residents, and are usually scattered throughout Winnipeg's older neighbourhoods. The existing "C1" commercial uses along Hespeler Avenue include the Elmwood Cemetery Office, a Flower Shop, a tombstone business, and an auto repair garage. These businesses appear to be located in houses converted to commercial uses with the exception of the auto repair business. These type of businesses serve the local residents down the street OR the nearby Elmwood Cemetery. There are 41 Permitted Uses and 20 Conditional Uses in the "C1" Commercial District. There is a front yard requirement of 20 feet and the maximum building height is 30 feet in "C1". A contractors' establishment is not permitted in "C1".

The "C1.5" Commercial Districts is intended to regulate commercial developments with less a neighbourhood orientation than "C1". These land-uses target local residents and a neighbourhood wide market. They are scattered throughout Winnipeg's residential neighbourhoods. There are 63 permitted and 56 conditional uses in the "C1-5" zoning designation. There is no front yard requirement and the maximum building height is 45 feet in "C1.5". A contractors' establishment is a 'conditional' use in "C1.5".

A "C2" Commercial District is intended to regulate more intensive commercial sites that do not have a local or neighbourhood orientation. These land-uses tend to cater to a community wide market. For example, commercial land-uses along Henderson Highway are "C2". They serve the local residents down the street as well as the surrounding North Kildonan area but not necessary a city wide market. This zoning category is common throughout the City of Winnipeg especially along transportation corridors such as Narin Avenue, Pembina Highway, Portage Avenue, St. Mary's Road, St.Anne's Road, and Regent Avenue West (between Winona and Day). There are 104 Permitted Uses and 47 Conditional Uses in the "C2" Commercial District. A contractors' establishment is a permitted use in "C2".

The strong residential characteristics of Hespeler Avenue in combination with the small scale commercial land-uses and the passive use of the adjacent cemetery would indicate that "C1.5" is more appropriate than "C2". The intensive nature of "C2" uses is more appropriate for Henderson Hwy.

The Division is further recommending that the type of uses permitted on the land should be restricted to ensure future commercial uses are compatible with the surrounding residential dwellings. These uses are generally considered intensive commercial users with associated sounds, smells and/or visual impacts that would be detrimental to the adjacent residents.

Signage is a particular concern considering the close proximity of the residential dwellings directly to the north and east. It would not be appropriate to have signage on the east side of the building since it may cause a negative impact on the neighbours. Flashing signage and signs in excess of the allowable amount would also prove detrimental to the adjacent residents.

Landscaping is also a concern considering the front yard is well landscaped and the parking area has a landscaped strip along Hespeler Avenue. These elements soften the commercial nature of the land-use and are consistent with the front yards of the residential dwellings. Access to the lot is limited to the rear public lane. This is consistent with the residential dwellings along Hespeler Avenue.

The applicant has also applied for a variance to allow a change of use. This would permit the applicant to establish the proposed contractors' establishment immediately while the rezoning by-law continues its process towards Council. A "C1.5" zone will require the applicant to file an application for a Conditional Use for a public hearing with the Board of Adjustment. This would allow for a public hearing to determine such issues as hours of operation, noise, etc that may impact the quality of life for the adjacent residential neighbours.

RECOMMENDATION:

I. That By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 227/04, attached hereto and dated, June 18, 2004, to **a "C1.5" Commercial District** subject to the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of The City of Winnipeg Charter Act, to provide for the following:

A. That, for the development of any building, accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the 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;

B. That land usage be restricted as follows:

i) The following uses shall NOT be permitted on the land:

AUCTION ROOM
AUTOMOBILE, including motorcycle: RENTAL, SALES, including accessory REPAIR, SERVICE, INSTALLATION OF SUPPLIES/PARTS
AUTOMOBILE, including motorcycle: SUPPLIES/PARTS, SALES
BEER: SALES
BINGO PARLOUR
BOAT: SALES, SERVICE
BOWLING ALLEY
BUILDING MATERIALS, HARDWARE, HOME IMPROVEMENT SUPPLIES or EQUIPMENT: SALES

BUS STATION
COCKTAIL LOUNGE
EXTERMINATOR
FUEL: SALES kiosk
HOTEL, including MOTEL, limited to guest rooms
LIQUOR: SALES
PARKING AREA, non-accessory
TATTOO PARLOUR
TIRE: SALES, SERVICE

C. The following signs are prohibited on the "C1.5" land:
   i) Free-standing signs in excess of twenty (20) feet in height;

   ii) Mobile advertising signs, except for a period of fourteen (14) days upon issuance of a new occupancy permit; and

   iii) Flashing or scintillating signs

D. That no illuminated signage be erected on the south or east side of the building.

E. That no ingress / egress be allowed directly from Hespeler Avenue.

F. That a 20 foot front yard adjacent to a building and Hespeler Avenue be maintained as a landscaped strip.

G. That a 5 feet front yard adjacent to a parking area and Hespeler Avenue be maintained as a landscaped strip.

H. That, prior to the issuance of any permits, all garbage containers be fully enclosed by a brick/concrete, and/or wood barrier fence that is at least 6 inches above the top of the garbage containers, and thereafter maintained to the satisfaction of the Director of Planning, Property and Development;

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

IV. That, the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat as a 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.

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

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

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

Final

Yours truly,

C. Knoll
Manager of Planning and Land Use

_____
Per: John S. Wintrup, Planner
East Kildonan - Transcona Community Committee
986-5102

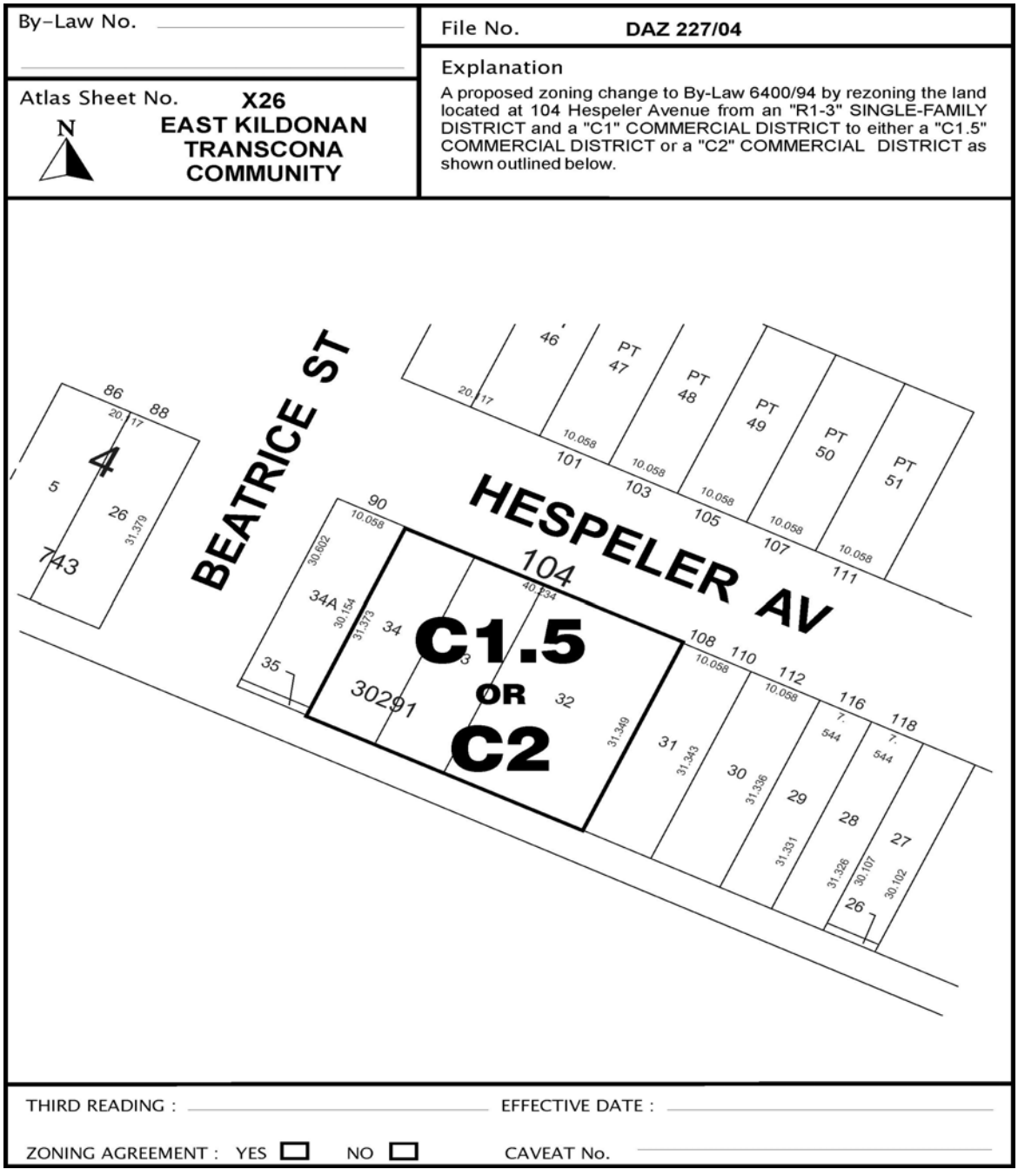


Figure 1: Schedule "A" to the report to the East Kildonan -Transcona Community Committee for File No. DAZ 227/04, dated June 18, 2004.

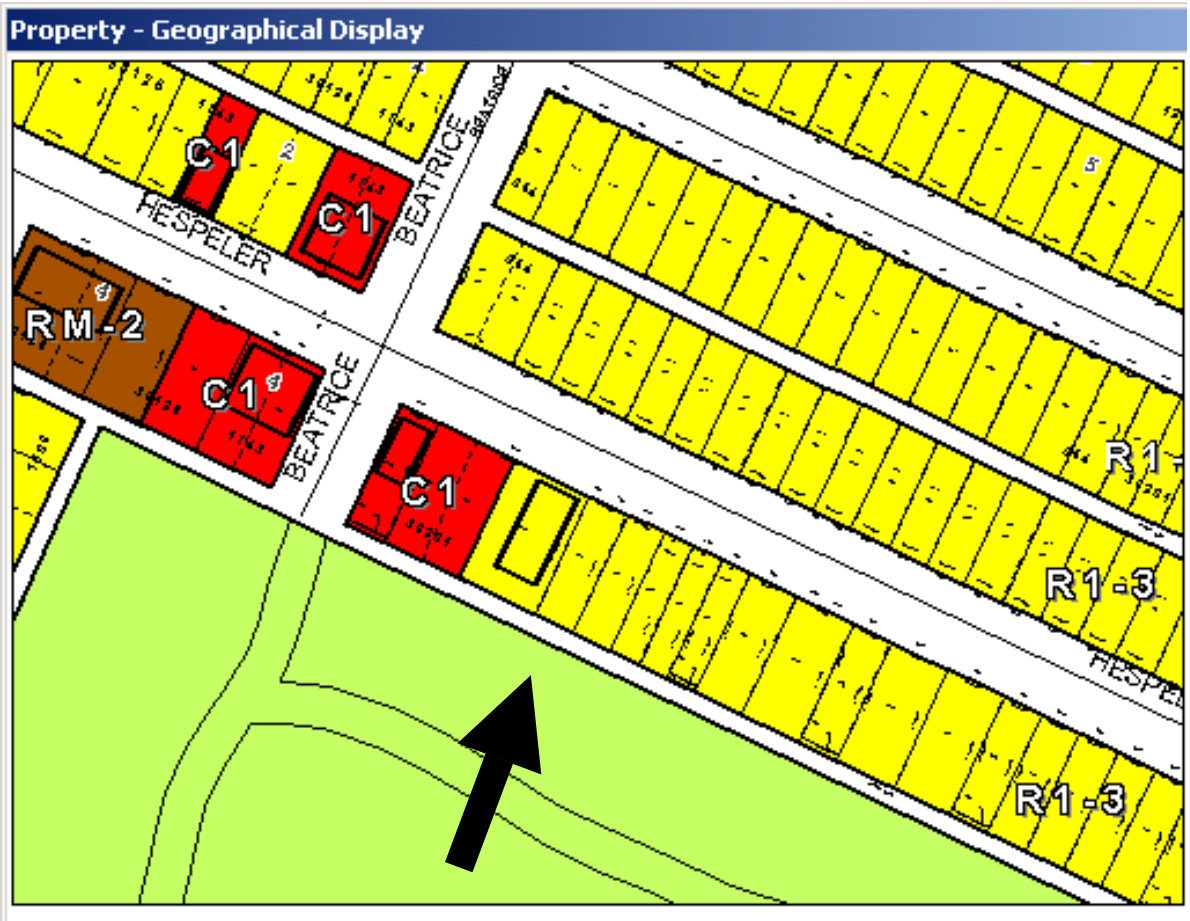


Figure 2: Existing Zoning for subject property and Surrounding Area.



Figure 3: Existing Land-Uses for subject property and Surrounding Area.