Agenda - Council - March 23, 2005

Report - Standing Policy Committee on Property and Development - March 7, 2005

Item No. 9 Subdivision and Rezoning – 1105, 1123, 1139 Gateway Road
File DASZ 48/2004

STANDING COMMITTEE RECOMMENDATION:

On March 16, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the East Kildonan-Transcona Community Committee and submits the following to Council:

1. That the plan of subdivision proposed under File DASZ 48/2004 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 48/2004 dated January 24, 2005, 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 containing all the conditions outlined in the report of the Administrative Coordinating Group dated January 24, 2005.

2. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 48/2004 dated January 24, 2005, to a "C2" Commercial District, subject to the following:

    A. That 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:

        i. That for the development of any building, accessory parking area 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, lighting, 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.

        ii. That 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 container.

        iii. That the following signs be prohibited on the "C2" land:

Report - Standing Policy Committee on Property and Development - March 7, 2005

a. Free-standing signs in excess of thirty-five (35) feet in height.
b. Advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.
c. Flashing or scintillating signs.

iv. That a maximum of three (3) free standing pylon signs shall be permitted on the subject property.

3. That a ten (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 and based on the creation of additional sites.

4. 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.

5. 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.

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

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

8. 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.

Report - Standing Policy Committee on Property and Development - March 7, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 16, 2005, the Executive Policy Committee concurred in the recommendations 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 March 7, 2005, 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 February 1, 2005, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation with the following amendment, namely:

- That Recommendation No. 2.A.3.i. be amended by substituting the words “twenty-five (25)” with the words “thirty-five (35)”

and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning – 1105, 1123, 1139 Gateway Road**
File DASZ 48/2004 [c/r DAV 339196/2004D, DCU 339198/2004D]

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

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

Report date: **February 10, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 1, 2005, the East Kildonan-Transcona Community Committee concurred in the administrative recommendation, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 39/2004 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 39/2004 dated January 24, 2005 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 containing all the conditions outlined in the report of the Administrative Coordinating Group dated January 24, 2005;

2. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for File DASZ 48/2004 dated January 24, 2005, to a "C2" Commercial District, subject to the following:

    A. That 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:

        i. That for the development of any building, accessory parking area 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, lighting, 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;

        ii. That 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 container.

iii. That the following signs are prohibited on the "C2" land:

a. Free-standing signs in excess of ~~***twenty-five (25)***~~ ***thirty-five (35)*** feet in height;

b. Advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event;

c. Flashing or scintillating signs,

iv. That a maximum of three (3) free standing pylon signs shall be permitted on the subject property.

3. That a ten (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 and based on the creation of additional sites.

4. 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.

5. 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.

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

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

8. 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.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

The East Kildonan-Transcona Community Committee provided the following supporting reasons for its recommendation:

1. That the proposed rezoning to a “C2” Commercial District is less intensive than the existing “M2” Industrial District zoning designation of the property.

2. The East Kildonan-Transcona Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated February 1, 2005 and in the report from the Administrative Coordinating Group dated January 25, 2005.

PUBLIC HEARING SUMMARY

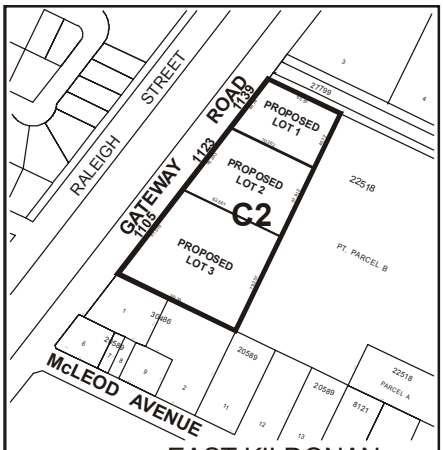
File: DASZ 48/2004

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

Public Hearing: February 1, 2005
Community Committee Chamber, 755 Henderson Highway

Applicant: XHale Corporation Inc. - Tom Peake

Subject:



EAST KILDONAN
TRANSCONA
COMMUNITY

APPLICANT : XHALE
CORPORATION INC.

FILE : DASZ 48/04

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 "M2" INDUSTRIAL DISTRICT to a "C2" COMMERCIAL DISTRICT. **For information, phone Mr. J. Wintrup, Planner at 986-5102.**

Premises Affected: 1105, 1123, 1139 Gateway Road

Exhibits Filed:

1. Application dated December 15, 2004
2. Notification of Public Hearing dated January 5, 2005
3. Manitoba Status of Title 1016893
4. Surveyor's Building Location Sketch dated November 16, 2004
5. Letter of authorization dated October 12, 2004 from Diane Dawiskiba, Manager, Corporate Services, Palliser Furniture Ltd., to Xhale Corporation
6. Plans (2 pages)
7. Report from the Manager of Planning and Land Use dated February 1, 2005
8. Report from the Administrative Coordinating Group dated January 25, 2005
9. Inspection Report
10. Site Plan and Landscape and Fence Details submitted by Tom Peake at the public hearing held on February 1, 2005

REPRESENTATIONS:

In Support:

Tom Peake

In Opposition

Nil

For Information:

Nil

For the City:

Michael Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Tom Peake appeared in support of the application, and submitted a Site Plan, as well as Landscape and Fence Details, filed as Exhibit 9. He indicated that the subject application includes three individual lots, and that the third phase (Lot 3) has yet to be finalised. In this connection, he advised that they hope to develop Lot 3 as a drive though banking facility. He advised that Lots 1 and 2, and the proposed development of a drive-through restaurant and a gas station/car wash, are permissible within the existing "M2" Industrial District, however, the subject application is proposing that all 3 lots be rezoned to a "C2" Commercial District designation.

Exhibit "7" referred to in File DASZ 48/2004 [c/r DAV 339196/2004D, DCU 339198/2004D]

Winnipeg

Planning, Property and Development Department Report

To the East Kildonan - Transcona Community Committee

Date: **February 1, 2005**
File: **DASZ 48/04**
Related Files: **DAV 04-339196D, DCU 04-339198D**
Subject: **Application to rezone land from a "M2" Industrial District to a "C2" Commercial District for the establishment of a drive-thru restaurant, carwash, and fuel kiosk.**

Location: **1105, 1123, 1139 Gateway Road**



Applicant: **Xhale Corporation Inc. - Tom Peake**
Owner: **Palliser Furniture Ltd.**

Recommendation: **Approval**

SITE DESCRIPTION:

Site Area, Existing Land Use, and Zoning
The subject property is zoned "M2" Industrial. The site, which is 3.61 acres, is currently within Furniture Park, which serves as headquarters for Palliser Furniture, and is part of the larger McLeod Industrial Park development.

Surrounding Land Use and Zoning
North: Industrial property (Furniture Park) zoned "M2" Industrial
South: A mix of commercial establishments and industrial uses zoned "M1" Industrial
East: Industrial property (Furniture Park) zoned "M2" Industrial
West: Immediately to the west, across Gateway, are railroad tracks zoned "M2" Industrial. Further west, across Raleigh, are single-family residences zoned "R1-5.5" Residential.

Existing Zoning
Under the current "M2"zoning classification, drive-through restaurants exceeding 2,500 square feet are conditional uses in the "M2" Industrial District and both fuel sales and automobile washing are permitted uses in the "M2" Industrial District.

DEVELOPMENT DESCRIPTION:

The applicant is planning to subdivide the subject parcel from a large industrial parcel and further subdivide into three lots. At the same time, the applicant is proposing to rezone the new parcels to "C2" Commercial from the existing "M2" Industrial, in order to accommodate future commercial development.

The applicant has submitted a concept plan for the site which shows three (3) individual lots with shared approaches and cross access. The applicant has indicated that Lot 1 will contain a ± 3,000 square foot Tim Horton's restaurant with drive-through. Lot 2 will contain a ± 1,800 square foot Co-op convenience store, drive-through car wash, and gas bar. The use for Lot 3 has not yet been determined.

ADMINISTRATIVE ANALYSIS:
As previously mentioned, the applicant is proposing to subdivide and rezone a 3.61 acre parcel in order to establish several commercial businesses. The Planning and Land Use Division has evaluated the proposed rezoning and offer the following comments:

Plan Winnipeg
The subject lands are within an Industrial Policy Area, as designated in Policy Plate "A" in Plan Winnipeg 2020. In order to protect the stability and long-term viability of the City's industrial areas, commercial development is only allowed within an Industrial Policy Area in certain circumstances:

3B-06: Allowing the possible introduction of commercial uses in industrial areas to act as a buffer between the industrial uses and adjacent uses or to service the needs of the local industrial population.

3A-01: Considering the Industrial designation to signify areas of concentrated industrial uses and supportive infrastructure with the possible inclusion of compatible commercial uses.

The Planning and Land Use Division feels that the proposed rezoning meets the policy goals of Plan Winnipeg 2020.

With respect to Policy 3B-06, the proposed establishments will provide needed services to the adjacent industrial population and will act as a buffer, for residences to the west, from intense manufacturing uses which are permitted in the "M2" Industrial District.

With respect to Policy 3A-01, the Division feels that the proposed uses are compatible with the surrounding area in that they serve the needs of the immediate population, are at a scale and intensity which is compatible with the immediate area, and are adjacent to existing commercial uses along McLeod Avenue.

Zoning
Under By-Law 6400/94, the applicant has the right to establish both the drive-through restaurant and the gas station/car wash within the "M2" Industrial District. "C2" Commercial zoning, on the other hand, while not required, provides benefit to the applicant by permitting a broader range of uses for Lot 3. This approach, it should be noted, is also the preferred option from the perspective of the Planning and Land Use Division because it provides a mechanism for the City to enter into a Development Agreement with the owner in order to ensure that the development contributes its fair share of required infrastructure improvements. A zoning agreement, which may include provisions to ensure that both off-site impacts and on-site conflicts are minimized, can also be provided through this approach.

Site Plan
The Planning and Land Use Division, at the time of submittal of this report, has evaluated a conceptual site plan for this project but has not received a more detailed submittal. Based upon this conceptual plan and discussions with the applicant, the Division has the following comments. The applicant is aware of our comments and is currently working with his architect to fine tune the plans before submittal to the Community Committee for plan approval:

Landscaping
Gateway Road, beginning just north of the gas station at McLeod and Gateway, takes on an industrial park character with large setbacks and heavy landscaping in places. Given that this stretch of road has a boulevard character, the Planning and Land Use Division feels that it is appropriate to maintain a landscaped setback a minimum of 10 feet wide along the entire front of the property. The Division recommends that this setback be landscaped with deciduous trees, a minimum 2.5" caliper, spaced every twenty feet as well as a lightproof fence abutting the parking area with vertical boards including periodic breaks to allow for planting areas, as

required under By-law 6400/94. In addition, the applicant has indicated that they will be providing planting areas at the approaches as well as a prominent planting area in the northwest corner of the site.

It should also be noted that the applicant will be removing several mature poplar trees on the site. Public Works (Forestry) have evaluated these trees and determined that they are at an age when they start to decline. In that vein, the Division felt that replacing those trees with a somewhat equivalent number of new trees would be an appropriate trade off that will continue to provide some visual relief for residents to the west.

The Division also feels that in order to retain the character and attractiveness of the main entrance to Furniture Park, a 10-foot setback with moderate landscaping, or a zero setback (permitted in C2) with heavy landscape screening should be provided along the north property line, adjacent to the proposed drive-through. The applicant has indicated that he would prefer not to provide a setback but instead, to secure permission from Palliser to install landscape material on their property, which is an acceptable alternative.

Additional benefit would be provided through landscaping within the parking areas, along the foundation of the buildings, and at the base of the pylon signs. The applicant is proposing significantly more parking (+ 18 spaces) than is required under By-law 6400/94 and would have excess capacity to provide landscaping within the lot.

Pedestrian Connections
Given that the proposed development is adjacent to a large manufacturing facility, the Planning and Land Use Division recommends that pedestrian access to the site from Furniture Park be provided. In addition, it should be noted that there are sidewalks along Gateway and a large residential area to the west that will likely frequent the subject establishments. In that vein, the Division feels that it is important to provide pedestrian connection from the sidewalk to both the restaurant (Lot 1) and to Lot 3, when it is developed, as well.

Internal Circulation
While shared approaches and shared access can be beneficial, it can also create conflicting vehicular movements between adjoining land uses. In this regard, the proposed site circulation scheme appears to have a number of potential conflict points, which may result in traffic congestion and increased accidents within the site. It is expected that in the final plan, conflict points will be eliminated. This may result in the need to provide separate approaches and to close shared access between the sites.

Lighting
It has come to the attention of the Planning and Land Use Division that other gas stations within the City have site lighting which spills off their properties and is perceived by some to be glaring. This can be a dangerous situation as bright lights can be distracting to motorists and a nuisance to adjoining properties. With that said, we recommend that the applicant propose lighting which at a minimum, includes full cut off light fixtures and lighting levels which do not

distract motorists or surrounding property owners. In that regard, the Division recommends that a lighting plan be required.

Future Development (Lot 3)
The future commercial use shall be designed in a way that it provides seamless integration with the existing development. Most importantly, circulation should be designed to avoid conflict points with the adjacent property and if this cannot be accomplished, a separate approach with limited or no cross access should be considered. Additionally, pedestrian access from the sidewalk shall be provided and loading areas should be screened as much as possible. Landscaping will also be required in similar amount, variety, and location as the adjacent lots. Finally, the same general policy goals of Plan Winnipeg, with respect to the use serving the local industrial population and compatibility with the surrounding area, must be respected.

Signage
Signage is a particular concern considering the evolving image of Gateway Road. Given the boulevard characteristics of Gateway Road, and the residential community to the west, excessive signage beyond the allowable amount would prove detrimental. Therefore, the Division recommends that the applicant be limited to a maximum of three (3) freestanding signs up to the permitted maximum freestanding signage surface area of 323 square feet.

RECOMMENDATION:
The Planning and Land Use Division is recommending approval for the following reasons:

- The proposed rezoning is in compliance with Plan Winnipeg and its policies, ***provided that final plans address the concerns stated in the Administrative Analysis.***
- The proposed rezoning is compatible with the surrounding properties, ***provided that final plans address the concerns stated in the Administrative Analysis.***
- The proposed use will not create an adverse effect on the amenities, use, safety and convenience of the adjoining properties and adjacent area, ***provided that final plans address the concerns stated in the Administrative Analysis.***

<u>Recommended Conditions of Approval</u>

1. That the plan of subdivision proposed under File No. DASZ 39/2004 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 39/2004, attached hereto and dated January 24, 2005 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 containing all the conditions outlined in the report of the Administrative Coordinating Group dated January 24, 2005;

2. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DASZ 48/04, attached hereto and dated, January 24, 2005, to a "C2" Commercial District, subject to the following:

A. That 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:

i. That, for the development of any building, accessory parking area 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, lighting, 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;

ii. That, 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 container.

iii. That, the following signs are prohibited on the "C2" land:

a. Free-standing signs in excess of twenty-five (25) feet in height;

b. Advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with an official opening event.

c. Flashing or scintillating signs;

iv. That, a maximum of three (3) free standing pylon signs shall be permitted on the subject property.

3. That a ten (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 and based on the creation of additional sites.

4. 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.

5. 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.

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

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

8. 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.

This Report Submitted by:
Planning, Property and Development Department
Planning and Land Use Division

Report Prepared by: Michael Robinson, AICP, Planner
PPD File #4.428

Schedule "A"

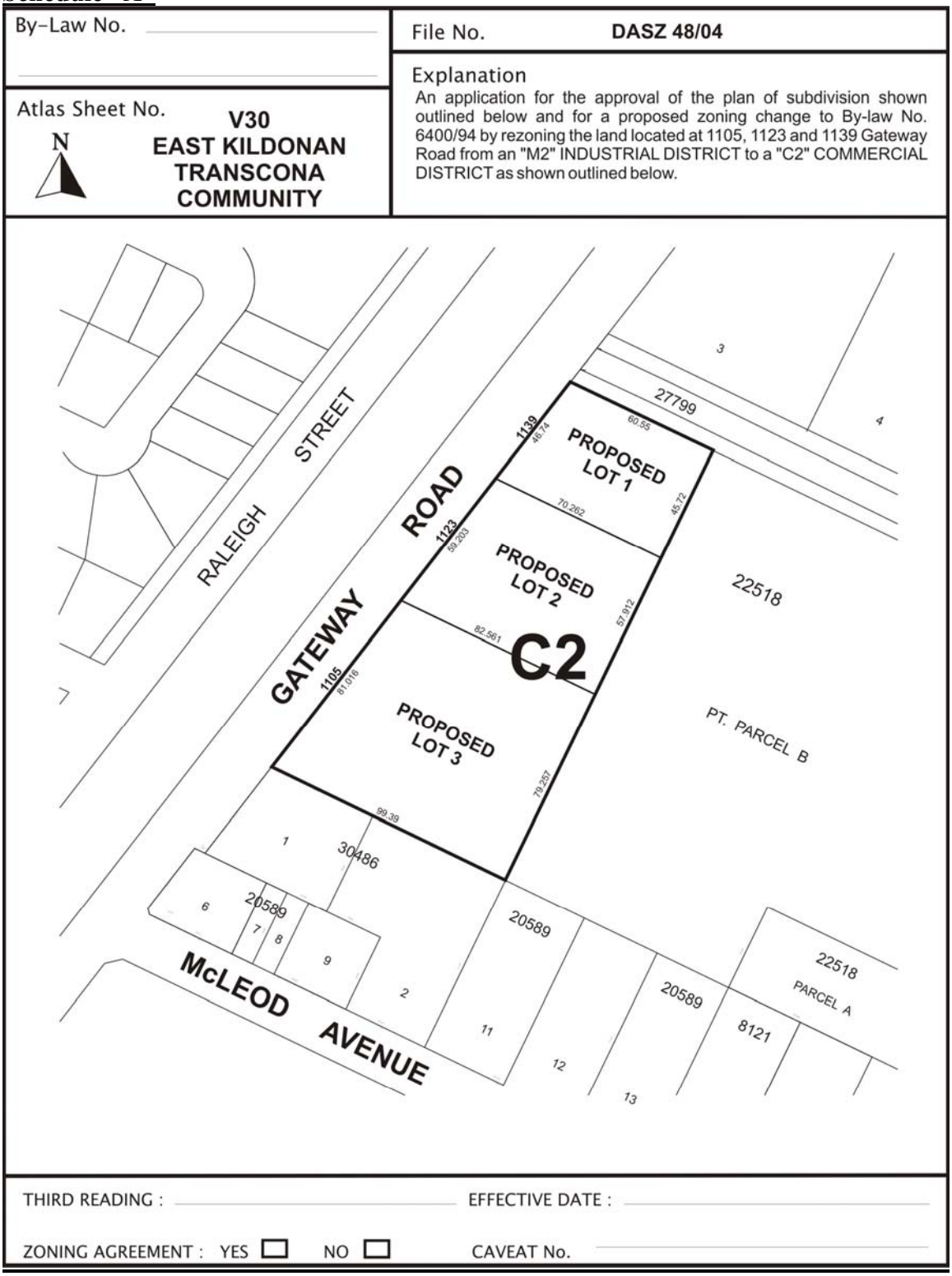


Figure 1: Schedule "A" to the report to the East Kildonan - Transcona Community Committee for File No. DASZ 48/2004, dated January 24, 2005.



Figure 2: Existing Land-Uses for subject property and Surrounding Area.

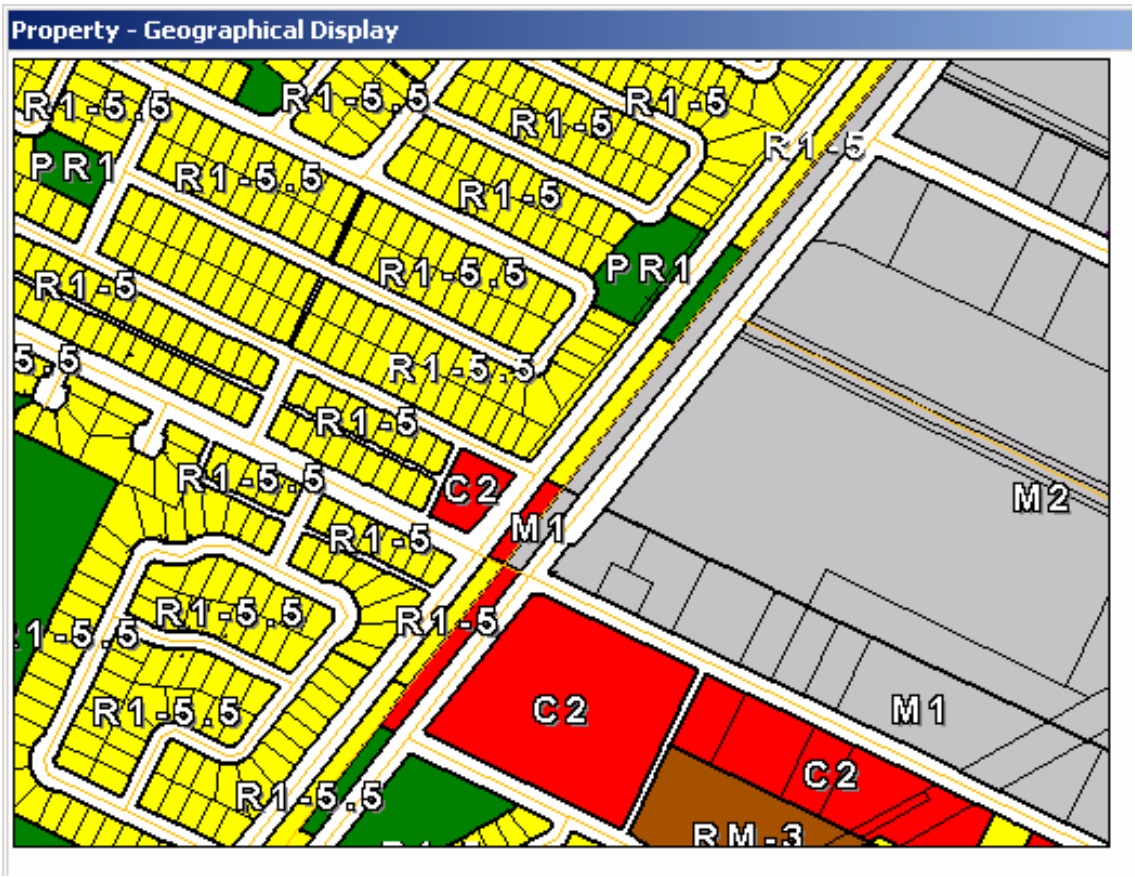


Figure 3: Existing Zoning for subject property and Surrounding Area.

Exhibit "8" referred to in File DASZ 48/2004 [c/r DAV 339196/2004D, DCU 339198/2004D]

Re: Proposed subdivision and rezoning of land located on the east side of Gateway Road, north of McLeod Avenue – DASZ 48/04

FOR SUBMISSION TO THE CHAIRPERSON AND MEMBERS OF THE EAST KILDONAN-TRANSCONA COMMUNITY COMMITTEE

"Original signed by E.L. Carrière"
E.L. Carrière, P.Eng.
Land Development Engineer

January 25, 2005

2102

Re: Proposed subdivision and rezoning of land located on the east side of Gateway Road, north of McLeod Avenue – DASZ 48/04

An application has been submitted by Xhale Corporation Inc. to subdivide and rezone land located on the east side of Gateway Road, north of McLeod Avenue.

It is recommended that approval of DASZ 48/04 be subject to the Developer entering into a Servicing Agreement as follows:

1. The Developer shall, at no expense to the City, construct a wastewater sewer in Gateway Road to serve the proposed subdivision as determined by and to the satisfaction of the Director of Water and Waste.
2. The Developer shall pay the full cost of engineering services provided by or on behalf of the City in connection with the installation of the wastewater sewer required to serve the proposed subdivision.
3. The Developer shall pay $1,650.00 plus 7% G.S.T. to defray the City's administration and related costs associated with the preparation and implementation of the Servicing Agreement.

THIS REPORT SUBMITTED BY:

E.L. Carrière, P.Eng.
Land Development Engineer
File No. AG 48/04
January 25, 2005

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