Minute No. 739
Report - Standing Policy Committee on Property and Development - October 4, 2005

Item No. 10 Rezoning - 523 Harstone Road
File DAZ 234/2005

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 234/2005 dated August 25, 2005, from a "C1" Commercial District to a **"**C1.5**"** 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 land usage be restricted as follows:

            a. That the following uses shall not be permitted on the land:

                1. auction room
                2. automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts
                3. automobile, including motorcycle: supplies/parts, sales
                4. beer: sales
                5. bingo parlour
                6. boat: sales, service
                7. bowling alley
                8. building materials, hardware, home improvement supplies or equipment: sales
                9. bus station
                10. cocktail lounge
                11. contractor's establishment
                12. exterminator
                13. fuel: sales kiosk
                14. hotel, including motel, limited to guest rooms
                15. liquor: sales
                16. parking area, non-accessory
                17. tattoo parlour
                18. tire: sales, service

Report - Standing Policy Committee on Property and Development - October 4, 2005

COUNCIL DECISION (continued)

ii. That the following signs are prohibited on the "C1.5" Commercial District land:

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

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

iii. That for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Assiniboia Community Committee and the Director of Planning, Property and Development 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.

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.

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

5. 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.

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

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.

Report - Standing Policy Committee on Property and Development - October 4, 2005

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 19, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 4, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 20, 2005, the Assiniboia Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning – 523 Harstone Road**
File DAZ 234/2005 [c/r DAV 142783/2005D]

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

Prepared by: **Josie Marques, Clerk,**
Assiniboia Community Committee

Report date: **September 22, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 20, 2005, the Assiniboia 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 234/2005, dated August 25, 2005, from a "C1" Commercial District to a **"**C1.5**"** 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 land usage be restricted as follows:

            a. That the following uses shall not be permitted on the land:

                1. auction room
                2. automobile, including motorcycle: rental, sales, including accessory repair, service, installation of supplies/parts
                3. automobile, including motorcycle: supplies/parts, sales
                4. beer: sales
                5. bingo parlour
                6. boat: sales, service
                7. bowling alley
                8. building materials, hardware, home improvement supplies or equipment: sales
                9. bus station
                10. cocktail lounge
                11. contractor's establishment
                12. exterminator
                13. fuel: sales kiosk

14. hotel, including motel, limited to guest rooms
15. liquor: sales
16. parking area, non-accessory
17. tattoo parlour
18. tire: sales, service

iii. That the following signs are prohibited on the "C1.5" Commercial District land:

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

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

iii. That for the development of any building, and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Assiniboia Community Committee and the Director of Planning, Property and Development 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.

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

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 Assiniboia Community Committee provided the following supporting reason(s) for its recommendation:

1. The site already is zoned commercially.

2. The proposal is good for the site.

PUBLIC HEARING SUMMARY

File: DAZ 234/2005 [c/r DAV 142783/2005D]

Before: Assiniboia Community Committee
Councillor Eadie, Chairperson
Councillor Clement
Councillor De Smedt

Public Hearing: September 20, 2005
Community Committee Chamber
5006 Roblin Boulevard

Applicant: Profitness Fitness Centre (Brian Herosian)

Subject:



Premises Affected: 523 Harstone Road

Exhibits Filed:

1. Application dated July 29, 2005
2. Notification of Public Hearing dated August 9, 2005
3. Title Searches 1808121 and 21038949
4. Surveyor's Building Location Certificate and sketch dated March 25, 1999

5. Plan
6. Report from the Manager of Planning and Land Use dated August 25, 2005
7. Inspection Report

REPRESENTATIONS:

In Support:

Brian Herosian, Profitness Fitness Centre

In Opposition

Nil

For Information:

Nil

For the City:

Mr. R. Humble, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Brian Herosian, Profitness Fitness Centre, appeared in support of the application and gave a brief overview of the proposal.

In response to committee's questions, the Senior Planner advised that restricted uses were listed in the administrative recommendation and that a convenience store was a conditional use under the "C1.5" Commercial District zoning.

Mr. Herosian asked for clarification of recommendations 1.A.ii., 1.A.iii. and 3.

The Senior Planner advised that signs were permitted on the building. He also explained the plan approval process.

The Chairperson explained the application deadlines.

Exhibit "7" referred to in File DAZ 234/2005 [c/r DAV 142783/2005D]

Winnipeg

Planning, Property and Development Department Report

To the Assiniboia Community Committee

Date: **August 25, 2005**

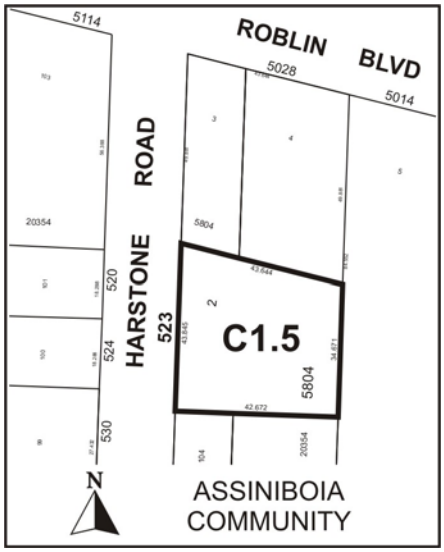
File: **DAZ 234/05**

Related Files: **DAV 05-142783D**

Subject: **To Rezone land from a "C1" Commercial District to a "C1.5" Commercial District for the establishment of a Personal Training Facility.**

Location: **523 Harstone Road**

Legal Description: **Lot 2, Plan 5804 W.L.T.O., in R.L. 50, Parish of St. Charles.**



Applicant: **Profitness Fitness Centre (Mr. Brian Herosian)**
Owner: **Profitness Fitness Centre (Mr. Brian Herosian)**

Recommendation: Approved with Conditions

Report Summary:

- The applicant, Profitness Fitness Centre, is proposing to relocate from 4910 Roblin Boulevard to 523 Harstone Road.
- The proposal requires rezoning 523 Harstone Road from "CI" Commercial District to "C1-5" Commercial District for the establishment of a personal training facility.
- The proposed rezoning is in compliance with Plan Winnipeg in that the subject site falls within a Neighbourhood Policy Area, allowing for a variety of residential, commercial, institutional and mixed uses.
- The Planning & Land Use Division recommends approval, with conditions.

Site Description

North:	Petro-Canada Certigard Car Repair zoned "CI" Commercial District then Roblin Boulevard
South:	Vacant land zoned "C1" Commercial District, then "R1-20" Residential District
East:	City of Winnipeg storage area zoned "C1" Commercial District
West:	Strip mall zoned "C1" Commercial District and single-family residential zoned "R1-6" Residential District

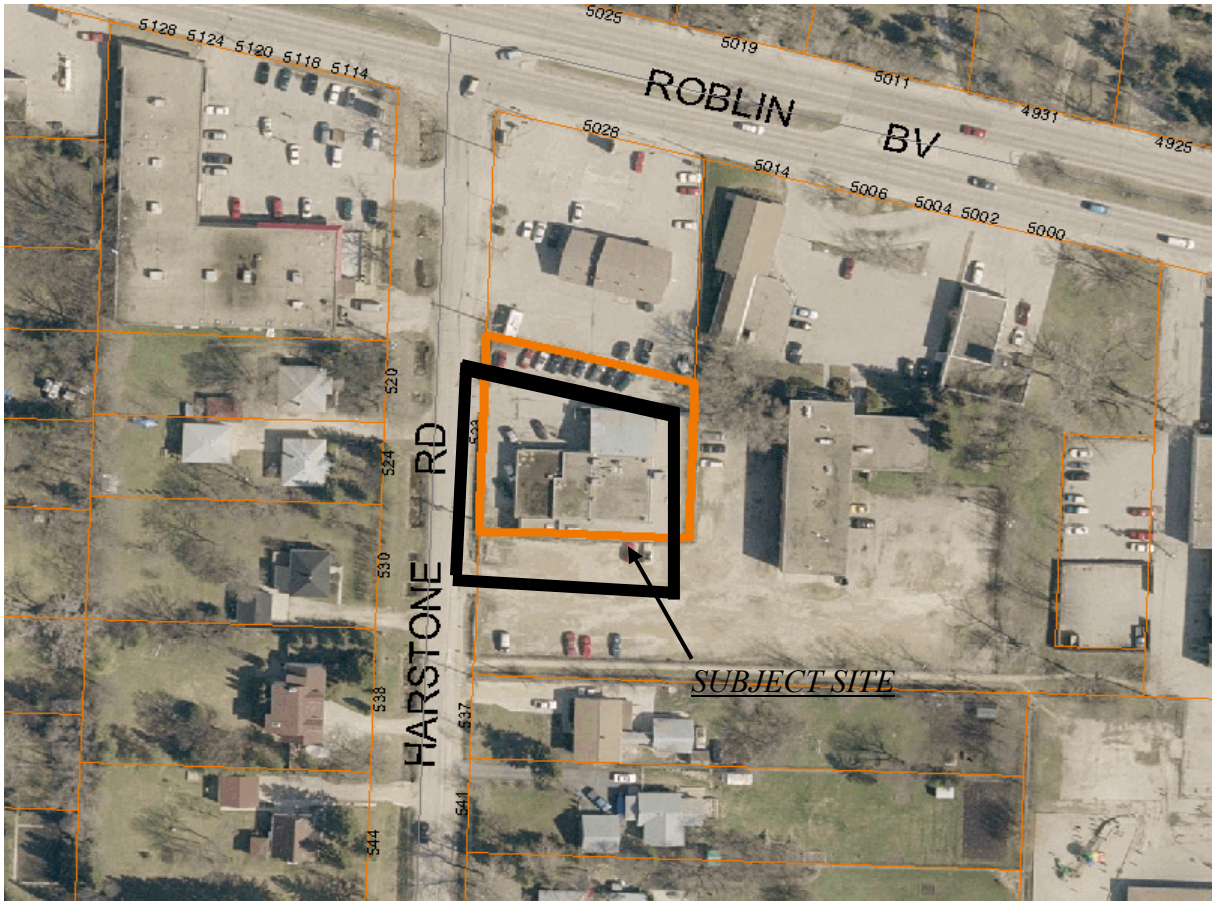


Figure 1: Subject Site (Aerial Photograph Flown 2002)

Background

A previous application was received for this site in July, 1995. At that time, DAV 440/95C proposed to vary the "C1" Commercial District regulations to permit the expansion of an existing custom printer/business use previously approved by DAV 591/88. In July 1995, the Board of Adjustment permitted the following:

1. The expansion of an existing custom printer/business use;
2. an addition providing no rear yard;
3. the redevelopment of a parking are providing as follows:
    a. no front yard to accessory parking;
    b. parking spaces adjacent to a fence having a width of 2.44m (8 feet);
    c. a reduction of parking spaces from 23 to 16;

subject to the following conditions to ensure compliance with (a) (b) and (c):

1. That landscaping plans indicating the type of trees in the area between the building and the west property line be submitted to the Board of Adjustment for approval and maintained thereafter to the satisfaction of the Director of Community Services.
2. That, if any Variance granted by this order is not established within two (2) years of the date hereof, this order, in respect of that Variance, shall terminate.

Description of the Proposed Development

Profitness Fitness Centre is currently located at 4910 Roblin Boulevard. Profitness Fitness Centre wishes to relocate to 523 Harstone Road by moving into the former Unigraphics/Print It building on Harstone Road. The facility will train the general population and athletes in a private, by appointment only situation. The owner states that the facility will have as many as 12 clients per hour to hour and a half and that there will be 3-4 staff on site at all times. The proposed new site has 15 parking spots on the property.

Analysis

Plan Winnipeg Compliance
The subject site is located within a Neighbourhood Policy area in Plan Winnipeg 2020. *Policy 3A-01 Promote Orderly Development*
(ii) The City shall promote orderly development through land use designations by considering Neighbourhood designation to signify areas of local identity with mutually supportive uses generally including a residential mix together with a variety of educational, recreational, institutional, commercial, and possibly industrial uses at a scale and density compatible with each other.

Policy 3A-02 Promote Compact Urban Form
(v) The City shall promote compact urban form in support of sustainability by supporting new development which is adjacent to, and compatible with, existing development and which is designed to minimize the spatial use of land.

Policy 3B-04 Accommodate Commercial and Retail Development
(iii) The City shall accommodate commercial and retail development by supporting the maintenance and development of community commercial centres ant provide convenient local shopping opportunities and services while minimizing the need for travel beyond the community The Planning and Land Use Division feels that this development complements and respects the Plan Winnipeg objectives.

Compatibility with Surrounding Land Uses
The previous use, UniGraphics/Print-It was a commercial use adjacent to existing commercial uses to the north and east and residential uses to the south and west. The proposed personal training facility use appears to pose no compatibility issues. Profitness Fitness Centre is currently operating in the area in a strip mall at 4910 Roblin Boulevard. Relocating this use to the new site will replace a currently vacant building in the same neighbourhood. However, the proximity of this site to residential areas should be considered when determining allowable uses.

Site Design Issues
Site plans do not indicate extensive site plan changes. Access to the proposed facility will be from the existing approach from Harstone Road. The applicant indicates there will be 15 parking spots on site. Due to the proximity of this site to an existing residential area, signage, lighting, fencing and landscaping must be carefully considered.

Land Use Bylaw Issues
This application requires a zoning variance to vary the "C1" district regulations of Zoning By-Law No. 6400/94 for a temporary change of use, not to exceed 5 years, to permit the establishment of a Personal Training Facility.

Recommendation

The Planning and Land Use Division recommends approval, with conditions, for the following reasons:

- The proposed rezoning is in compliance with Plan Winnipeg and its policies;
- The subject site falls within a Neighbourhood Policy Area, which allows for a variety of residential, commercial, institutional and mixed uses;
- The proposed rezoning is compatible with the surrounding properties;
- The proposed use will not create an adverse effect on the amenities, use, safety and convenience or the adjoining properties and adjacent area.

Recommended Conditions of Approval

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file **DAZ 234/05**, attached hereto and dated, **August 25, 2005**, to a **"C1.5"** 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:

1. 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
- CONTRACTOR'S ESTABLISHMENT
- EXTERMINATOR
- FUEL: SALES kiosk
- HOTEL, including MOTEL, limited to guest rooms
- LIQUOR: SALES
- PARKING AREA, non-accessory
- TATTOO PARLOUR
- TIRE: SALES, SERVICE

2. 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

3. That, for the development of any building, and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Assiniboia Community Committee and the Director of Planning, Property and Development 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 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.

III. 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.

IV. 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.

V. 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.

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

VII. 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: Angie Clark
PPD File # 2.614

Schedule "A"

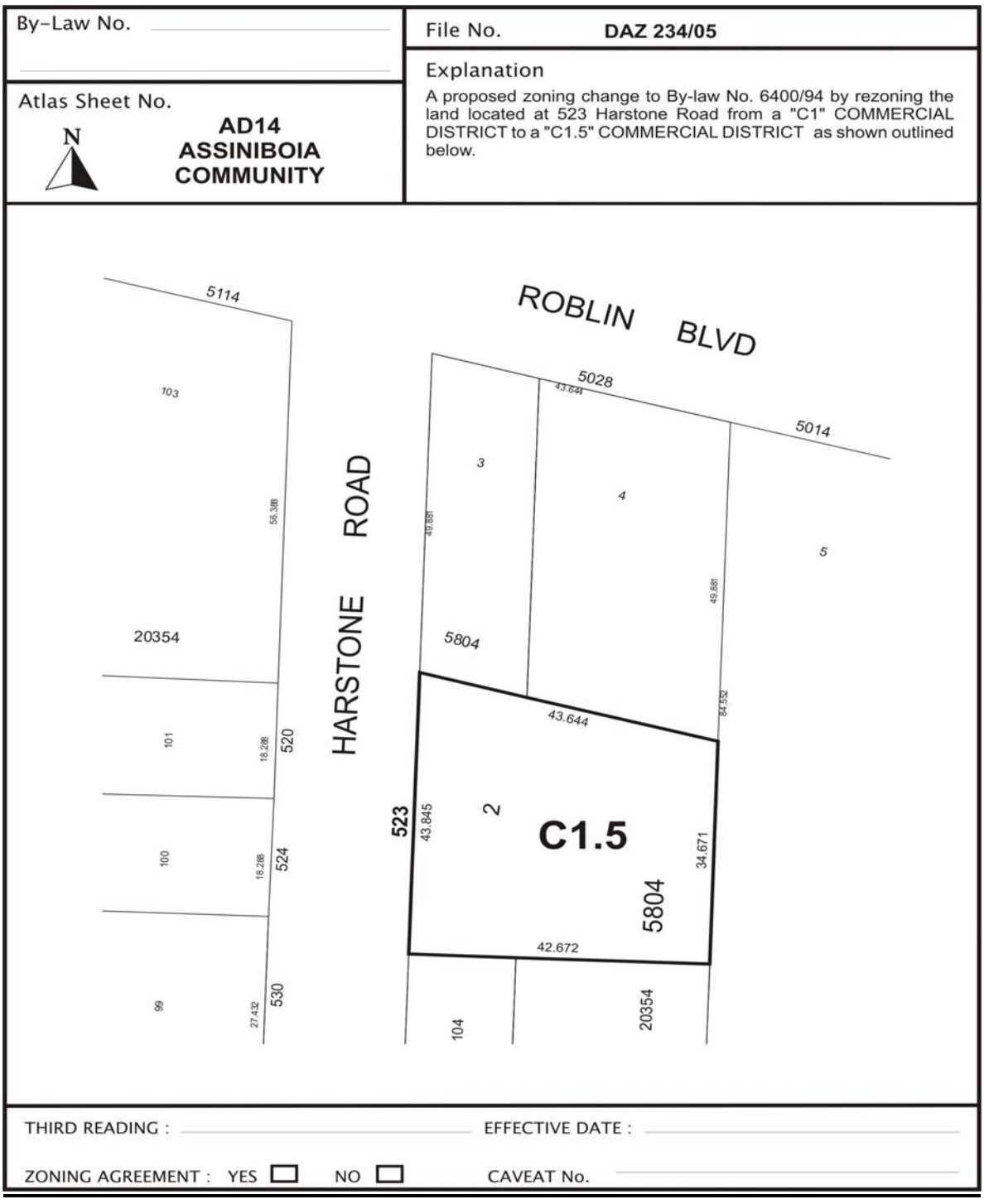


Figure 2: Schedule "A" to the report to the Assiniboia Community Committee File No. DAZ 234/05, dated August 25, 2005.