Minute No. 530
Report - Standing Policy Committee on Property and Development - May 2, 2006

Item No. 6 Rezoning - 305 Madison Street / 1595 Ness Avenue
File DAZ 212/2006

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 212/2006 dated March 28, 2006, 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 final plans showing the location and details of building elevations, site lighting, landscaping, fencing, patio enclosure, free-standing signage, fascia signage and garbage enclosures shall be submitted to the Director of Planning, Property and Development for approval prior to the issuance of any development or building permits and thereafter shall be maintained to the satisfaction of the Director of Planning, Property and Development.

        ii. That there shall be no advertising signs, mobile signs, poster signs, balloon signs, buntings and A-frame signs on the entire site, except that a mobile sign shall be permitted on site for a period of thirty (30) days in association with an official opening event.

        iii. That signage indicating "left turns only" be erected at all egresses onto Madison Street;

2. 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.

Report - Standing Policy Committee on Property and Development - May 2, 2006

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 City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three (3) 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 - May 2, 2006

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 May 17, 2006, 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 May 2, 2006, 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 April 18, 2006, the Assiniboia Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 305 Madison Street / 1595 Ness Avenue**
File DAZ 212/2006 [c/r DCU 114609/2006D and DAV 114610/2006D]

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

Prepared by: **Carlos Gameiro, Clerk,**
Assiniboia Community Committee

Report date: **April 21, 2006**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 18, 2006, 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 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 212/2006, dated March 28, 2006, 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 final plans, showing the location and details of building elevations, site lighting, landscaping, fencing, patio enclosure, free-standing signage, fascia signage, and garbage enclosures, shall be submitted to the Director of Planning, Property and Development for approval prior to the issuance of any development or building permits; and thereafter shall be maintained to the satisfaction of the Director of Planning, Property and Development.

        ii. That there shall be no advertising signs, mobile signs, poster signs, balloon signs, buntings and A-frame signs on the entire site, except that a mobile sign shall be permitted on site for a period of thirty (30) days in association with an official opening event.

        iii. That signage indicating "left turns only" be erected at all egresses onto Madison Street;

2. 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.

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 (3) 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.

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

1. The Assiniboia Community Committee agreed with the administrative comments contained in the report from the Planning and Land Use Division dated March 28, 2006.

PUBLIC HEARING SUMMARY

File: DAZ 212/2006 [c/r DCU 114609/2006D and DAV 114610/2006D]

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

Public Hearing: April 18, 2006
Council Building, 510 Main Street

Applicant: Gil Rossong Builders

Subject:



Premises Affected: 305 Madison Street / 1595 Ness Avenue

Exhibits Filed:
1. Application dated March 13, 2006
2. Notification of Public Hearing dated March 17, 2006
3. Manitoba Status of Title 2061441

4. Letter of authorisation dated March 5, 2006 from John Buhler, Gemstone Properties Inc., to Gil Rossong
5. Surveyor's Building Location Certificate and sketch dated March 1, 2005
6. Plan (1 page)
7. Report from the Planning and Land Use Division dated March 28, 2006
8. Inspection Report

REPRESENTATIONS:

In Support:
Gil Rossong
Bert Appelt
John Buhler

In Opposition:
Nil

For the City:
Mr. J. Veitch, Planner Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING

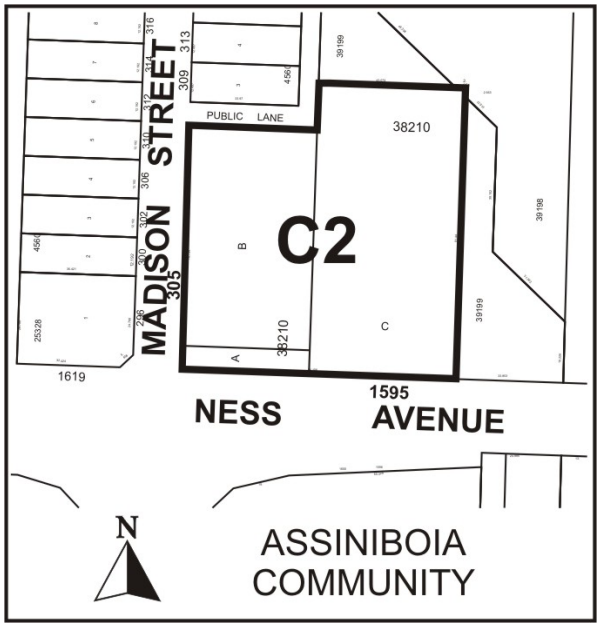
The applicant, Gil Rossong accompanied by John Buhler and Bert Appelt, appeared in support of the application and gave a brief overview of the proposal. In response to questions from Councillor Eadie, Mr. Rossong stated that lighting of the parking lot will be directed away from the surrounding residential area and that access onto Madison Street from the site will be modified for a left turn only, directing traffic toward Ness Avenue.

Exhibit "7" referred to in File DAZ 212/2006

Planning, Property and Development Department Report

To the Assiniboia Community Committee

Date: March 28, 2006
File: **DAZ 212/06**
Related Files: DCU 06-114609, DAV 06-114610
Subject: To amend By-Law No. 6400/94 by rezoning the land shown below from an "R1-5A" Residential District and 'M1' Industrial District to a "C2" Commercial District.
Location: 305 Madison Street / 1595 Ness Avenue
Legal Description: Parcels A, B & C Plan 38210



Applicant: Gil Rossong Builders
Owner: 4925735 Manitoba Ltd.

Recommendation: *Approval with Conditions*

Site Description

Existing Land Use and Zoning

The approximately 1.8 acre subject site is zoned 'R1-5A' Residential and 'M1' Industrial and is located in the Polo Park Neighbourhood of the Assiniboia Community. It had been occupied by an automobile dealership since 1964, which has since ceased operation.

The Appelt's Jewellery store, an existing retail use on the site was built in 2005 and is located at the southeast corner.

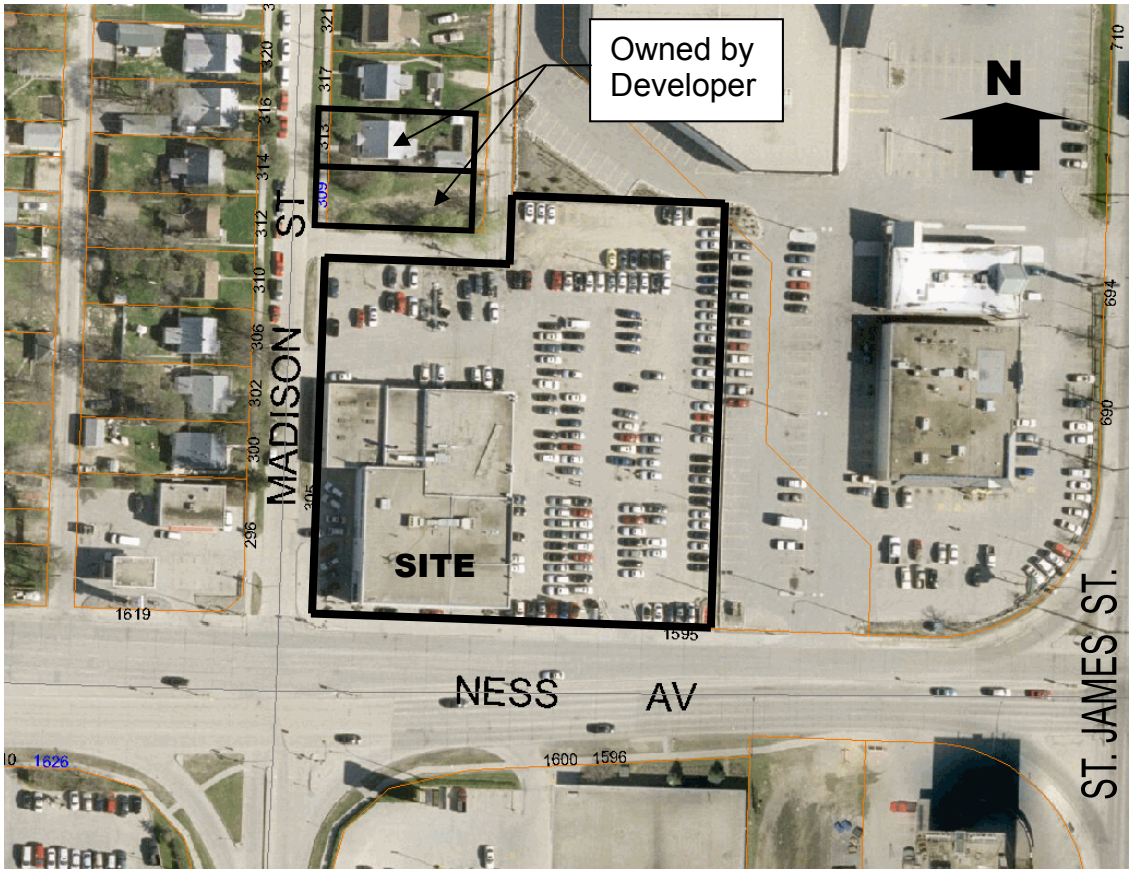


Figure 1: Subject Site (Aerial Photograph Flown 2005)

Surrounding Land Use and Zoning

North: Back Lane then 'R1-5' Residential (first two lots – owned by the developer)
South: Ness Avenue then 'C2' Commercial & 'M1' Industrial (shopping centre)
East: 'M1' Industrial (shopping centre)
West: Madison Street then 'C1' Commercial (Domo Gas Bar) and 'R1-5' Residential

Background

DAV 114649/2005C – Variance establishing the jewellery store on site with a south corner side yard of 9 feet, approved with conditions.
DAV 534/1987 – Variance allowing the construction of an addition, employee parking, vehicle display and no ornamental fencing, approved with conditions.
DCU 233/67C – Conditional Use to permit fascia and roof signage. Fascia signs granted, roof sign rejected.
DAV 186/64 – Variance to permit the construction of a showroom and service building having a 2 foot front yard instead of 20 feet. Approved as amended to 10 feet minimum front yard with conditions.

Description of the Proposed Development

The proposed development includes the renovation of the existing building, which will then be occupied by a 6,000 square foot restaurant and a 3,000 square feet sports bar. The developer has not yet determined the occupancy for the remaining 8,715 square feet +/- of the building, but has indicated potential retail or office space. The total parking requirement for the site will meet the Zoning By-law if the remaining portion of the building is occupied by an office use. If a retail or restaurant is proposed a variance will be required to allow insufficient parking.

An outdoor patio for the sports bar is indicated on the site plan at the southwest corner of the building facing Madison Street. There are no dimensions on the plan, however the patio scales off at approximately 2,530 square feet.

In conjunction with the rezoning application the developer is also applying for variances and conditional use. The associated variance application, **(DAV 114610-06)** contains 3 parts:

- the establishment of a 6,000 square foot restaurant with an outdoor patio and cocktail lounge for a period not to exceed five years,
- the maintenance of a commercial building to permit no rear yard instead of 25 feet, and
- a loading zone measuring 18 feet x 16 feet instead of 12 feet x 33 feet.

The associated Conditional Use application, **(DCU 114609-06)** contains 2 parts:

- a restaurant having a floor area of 6,000 square feet,
- a cocktail lounge with a patio.

Analysis

The subject site is zoned 'M1' Industrial, however like much of the Polo Park context has functioned in a commercial manner over the past several decades. This rezoning to 'C2' Commercial zone is appropriate both in terms of proposed and existing on site uses and the Plan Winnipeg designation of Regional Commercial and Mixed-Use Concentration.

Plan Winnipeg Compliance
As mentioned, the subject site is within the designated area of Regional Commercial and Mixed-Use Concentration in Plan Winnipeg 2020. *Policy 3A-01 Promote Orderly Development*, states that this designation signifies a desired location for large scale commercial development attracting customers city-wide and beyond, it is also intended to direct future development of this nature to these general locations. The proposed development of the restaurant and sports bar is by no means large-scale commercial development; however they will provide an appropriate transition from, and support to the Regional Commercial concentration and the residential uses of the Polo Park Neighbourhood.

Plan Winnipeg Policy *3A-02 Promote Compact Urban Form* encourages the infill of vacant lands maximizing the use of existing infrastructure, as well as supporting new development, which is adjacent to, and compatible with, existing development. The subject site had been an auto sales use since 1964, however it has been vacant for the past few months. The proposed restaurant, sports bar and future commercial development of the site are compatible with the existing commercial uses in the area.

3B-04 Accommodate Commercial and Retail Development identifies areas designated as Regional Commercial and Mixed Use Concentration to accommodate large scale retail and service space, entertainment space and suburban office employment of a regional nature, again supporting the proposed uses.

3B-05 Promote Commercial Densification encourages the redevelopment, infill, and expansion of existing commercial areas as the preferred method of accommodating new commercial development, accurately describing this proposal.

Compatibility with existing neighbourhood and surrounding uses
The subject site is located at the northeast corner of Madison Street and Ness Avenue and as stated above within the Polo Park commercial zone designated in Plan Winnipeg as Regional Commercial and Mixed-Use Concentration. The restaurant and sports bar will draw upon both the large population of shoppers that frequent the area on a daily basis as well as the people that work at the various surrounding stores.

In terms of compatibility, it should be noted that the site is located on the western edge of this Polo Park commercial area and residential uses exist to the north and northwest of the site. To the immediate west across Madison Street is a gas bar, which will provide a transition buffer to

the residential properties further west. North of the subject site there is a back lane followed by a vacant residential lot providing some separation distance.

The subject site has operated as an auto dealership since 1964; it appears that the change of use will not adversely impact the surrounding neighbourhood provided that the site development and the operation of the businesses respect the context.

Transportation and Site Access
The development proposal indicates the use of two accesses onto the site; one off of Madison Street at the northern end of the property and one off of Ness Avenue. Presently these two approaches exist in these locations, however the developer may adjust their size and location to fit better with their proposed site development and circulation. There is a second approach off Madison Street directly across from the gas bar; it appears as though this originally served as loading access for the auto dealership. The Developer does not intend to use this approach.

The Planning and Land Use Division suggested to the developer that it would be a good idea to have cross access with the neighbouring commercial property to the east. Unfortunately there is a significant change in grade between these two properties and thus a physical connection does not appear possible.

We will be recommending a 'Left Turn Only' sign be installed at the Madison Street egress directing traffic back to Ness Avenue as they exit the site.

Site Design Issues
One of the key aspects of this redevelopment project will be the design of the site layout, parking, circulation, landscaping, lighting, fencing, etc. and its impact on the immediate context. It cannot be overstated that the design of a site on the perimeter of a large commercial area next to an established residential neighbourhood is critical to the success and operation of that site. From our initial pre-application meeting with the developer through our numerous telephone calls and e-mails, the Planning and Land Use Division has stressed the importance of quality site development. The installation of significant landscaping, fencing and buffering will be required along the north and west property lines to mitigate the impact of the commercial uses on the existing residential neighbourhood. Downward directed light fixtures with the minimum possible wattage, luminosity and height can be sensitively established adjacent to the neighbourhood.

The submitted site plan indicates an outdoor patio for the sports bar on the west side of the building adjacent to Madison Street. Typically patio's serving alcohol have the potential to cause issues when adjacent to a neighbourhood context. On the submitted plans the proposed patio scales off at over 2,500 square feet in size. The Planning and Land Use Division feels this is too large for this location and context. Most of the patios serving full-scale restaurants such at the Keg and Boston Pizza are all in the 1,000 square foot size. The Planning and Land Use Division will be recommending that the patio be limited to 1,000 square feet in size as well as

restricting music and signage as conditions in the associated conditional use application. The Manitoba Liquor Control Commission has capacity maximums, noise level controls and restricted hours for patios in close proximity to a residential area.
At the time of the application, the developer did not know what the remaining 8,715 square feet of the building was going to be leased as. The required parking for the site meets the Zoning By-law at this point, once the developer indicates what will be occupying the remainder of the building a parking variance may be required if the use is something other than office. The Planning and Land Use Division feels that business offices, a medical office or perhaps a 'large product' retail use, such as a furniture store, may be appropriate uses for this portion of the building.

Comments from other departments
The Public Works department are aware of the application and has indicated that they will comment on any required infrastructure works at the time of the building permit review. For example the developer's responsibility in regards to the abandoned approach on Madison Street.

Public Input
We encouraged the developer to undertake a public open house to inform the local residents of their plans for the site. At the time this report was written the developer informed our Division that this had not occurred, but they are considering it and this option is still on the table.

Recommendation

In the context of Section 247(3), the Planning and Land Use Division recommends **approval with conditions** for the following reasons:

a) is consistent with Plan Winnipeg and any applicable secondary plan; **in that several Plan Winnipeg Policies such as; Policy 3A-01 Promote Orderly Development designates the location as appropriate for large scale commercial development attracting customers city wide and beyond, Policy 3A-02 Promote Compact Urban Form promotes the infill of vacant lands with new development adjacent and compatible with exiting development, Policy 3B-04 Accommodate Commercial and Retail Development identifies Regional Commercial designation to accommodate large scale retail, service, entertainment and suburban office employment, and Policy 3B-05 Promote Commercial Densification encourages the redevelopment, infill and expansion of existing commercial areas as the preferred method of accommodating new commercial development.**

b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway; **in that the site development will include a high standard of landscape, fencing, lighting and buffering to minimize any potential conflicts with the surrounding neighbourhood.**

c) is compatible with the area in which the property to be affected is situated, **in that it is adjacent to an existing, well developed commercial area to the east and south as well as a major traffic artery to the south, while at the same time providing an appropriate buffer and transition to the residential area to the north and northwest.**

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 212/06, attached hereto and dated March 28, 2006, 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:

ii. That final plans, showing the location and details of building elevations, site lighting, landscaping, fencing, patio enclosure, free-standing signage, fascia signage, and garbage enclosures, shall be submitted to the Director of Planning, Property and Development for approval prior to the issuance of any development or building permits; and thereafter shall be maintained to the satisfaction of the Director of Planning, Property and Development.

iii. That there shall be no advertising signs, mobile signs, poster signs, balloon signs, buntings and A-frame signs on the entire site, except that a mobile sign shall be permitted on site for a period of thirty (30) days in association with an official opening event.

iv. That, signage indicating 'Left Turns Only' be erected at all egresses onto Madison street;

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 (3) 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.

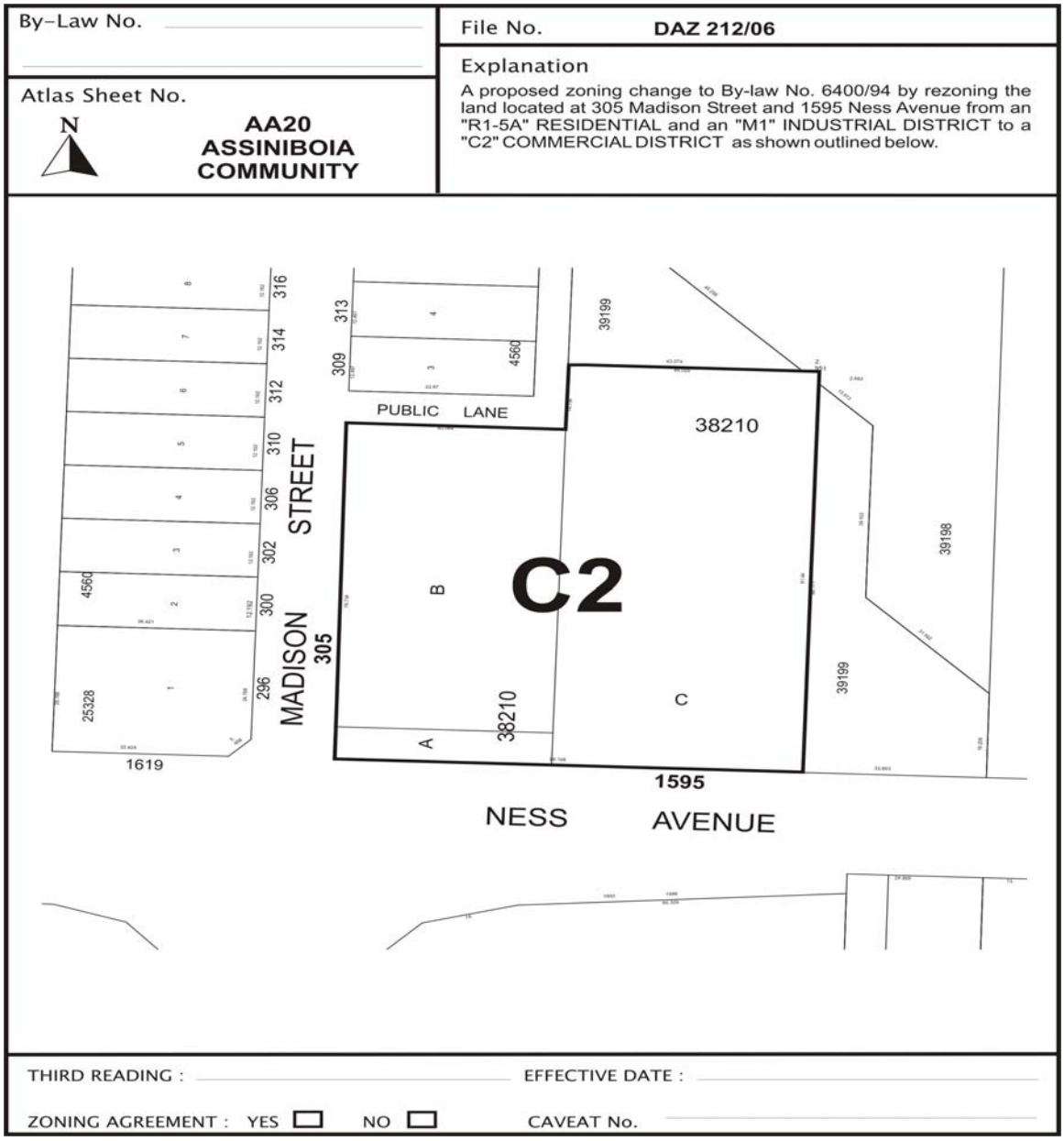
VI. That the Proper Officers of the City are hereby authorized to execute said Zoning Agreement.

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: James Veitch
PPD File # DAZ 212/06

Schedule "A"



Schedule "A" to the report to Assiniboia Community Committee for file # DAZ 212/05 dated March 28, 2006.