285 - Appendix "A" referred to in Clause 1 of the Report of the Standing Policy Committee on Protection and Community Services dated January 12, 1998

THE CITY OF WINNIPEG

BY-LAW NO.

A By-law of The City of Winnipeg to amend By-law No. 1481/77, being The City of Winnipeg Streets By-law.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

1. By-law No. 1481/77 of The City of Winnipeg is amended by the addition of the following Subsection:

"**2.18 Soliciting Business in a Roadway**

No person shall enter a roadway or occupy a roadway for the purpose of offering the occupant or occupants of vehicles any goods or service, nor shall a person provide any goods or service in a roadway to the occupant or occupants of vehicles in the roadway, provided however, that this Section shall not be construed to render it unlawful for a person to enter a roadway to render assistance where such assistance is deemed necessary due to accident or breakdown."

DONE AND PASSED in Council assembled this day of A.D. 1997.

_____
Mayor

_____
City Clerk

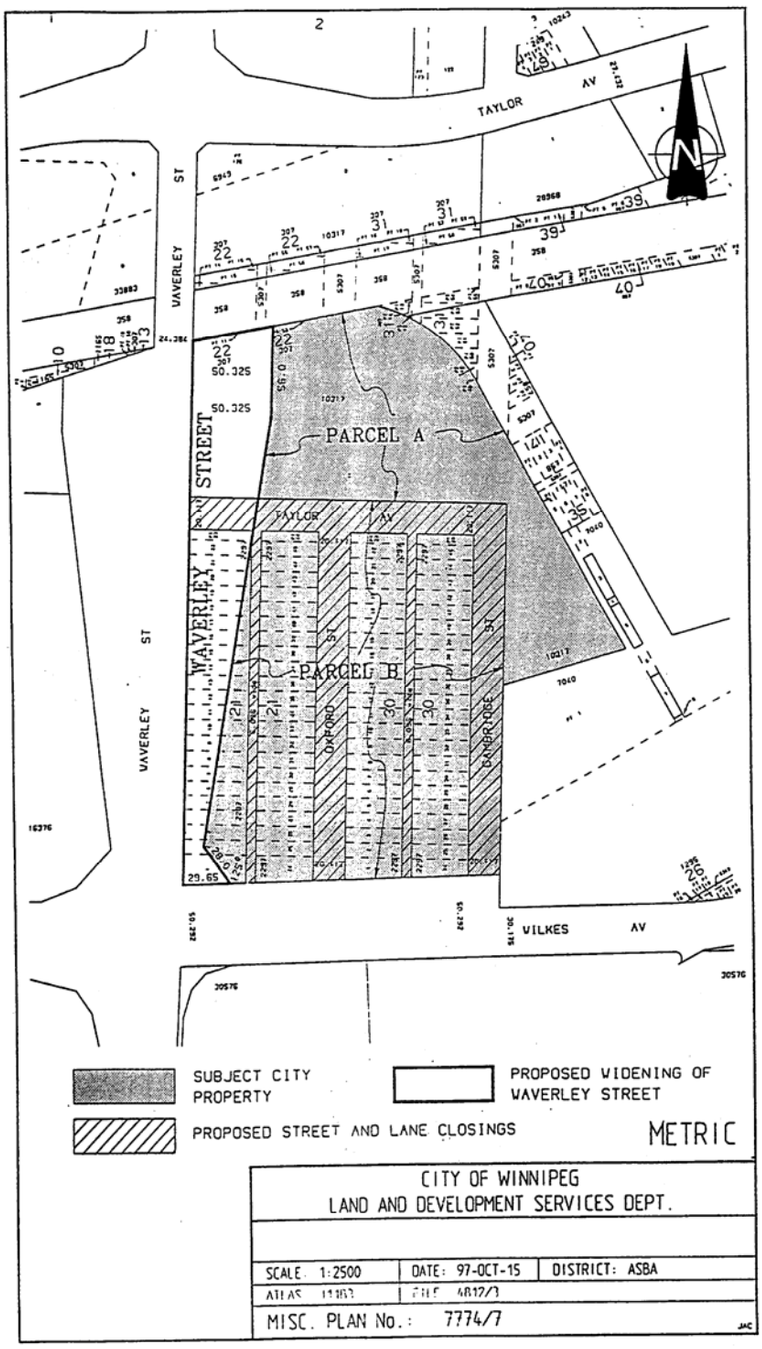
Certified as to details:

_____
Director
Streets and Transportation

Certified as to form:

_____
for City Solicitor/
Manager of Legal Services

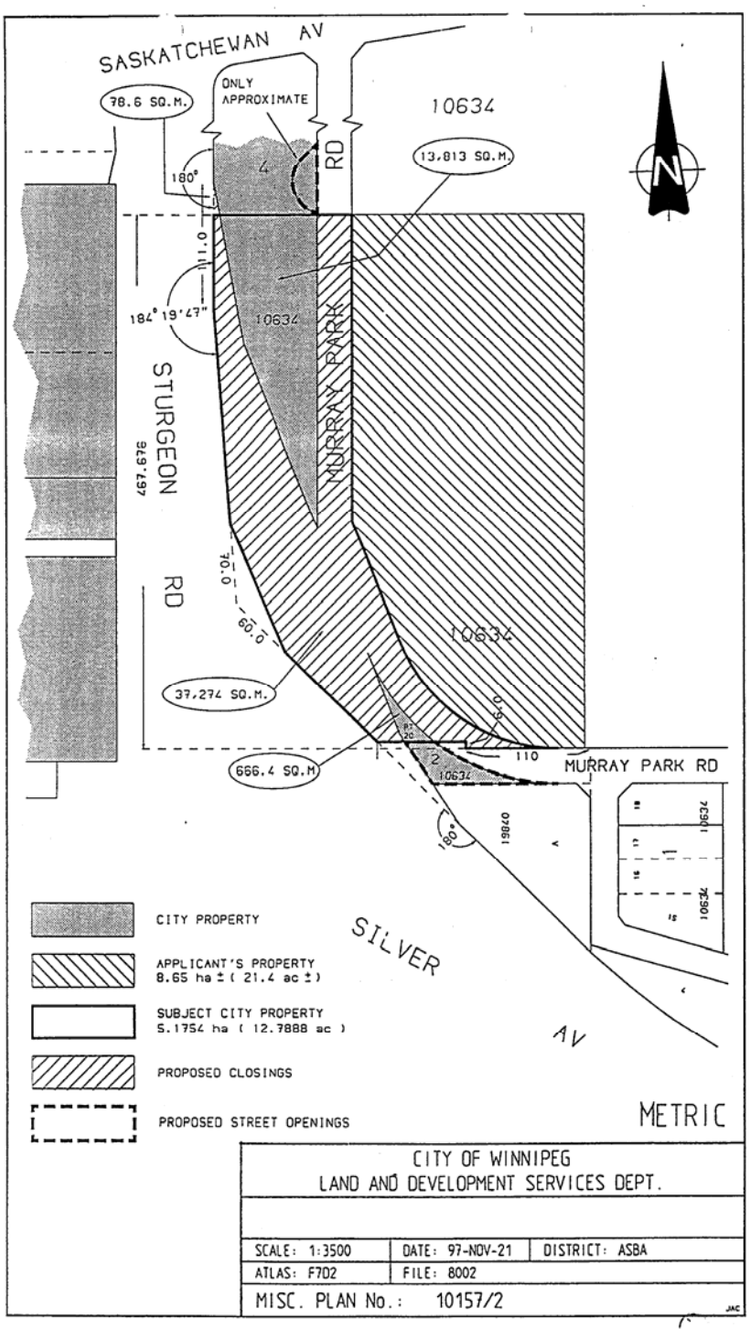
286 - Schedule “A” referred to in Clause 2 of the Standing Policy Committee on Property and Development dated January 5, 1998



SCHEDULE “A” FOR THE REPORT TO THE ASSINIBOIA COMMUNITY COMMITTEE FOR FILE NO. DAO 16/97

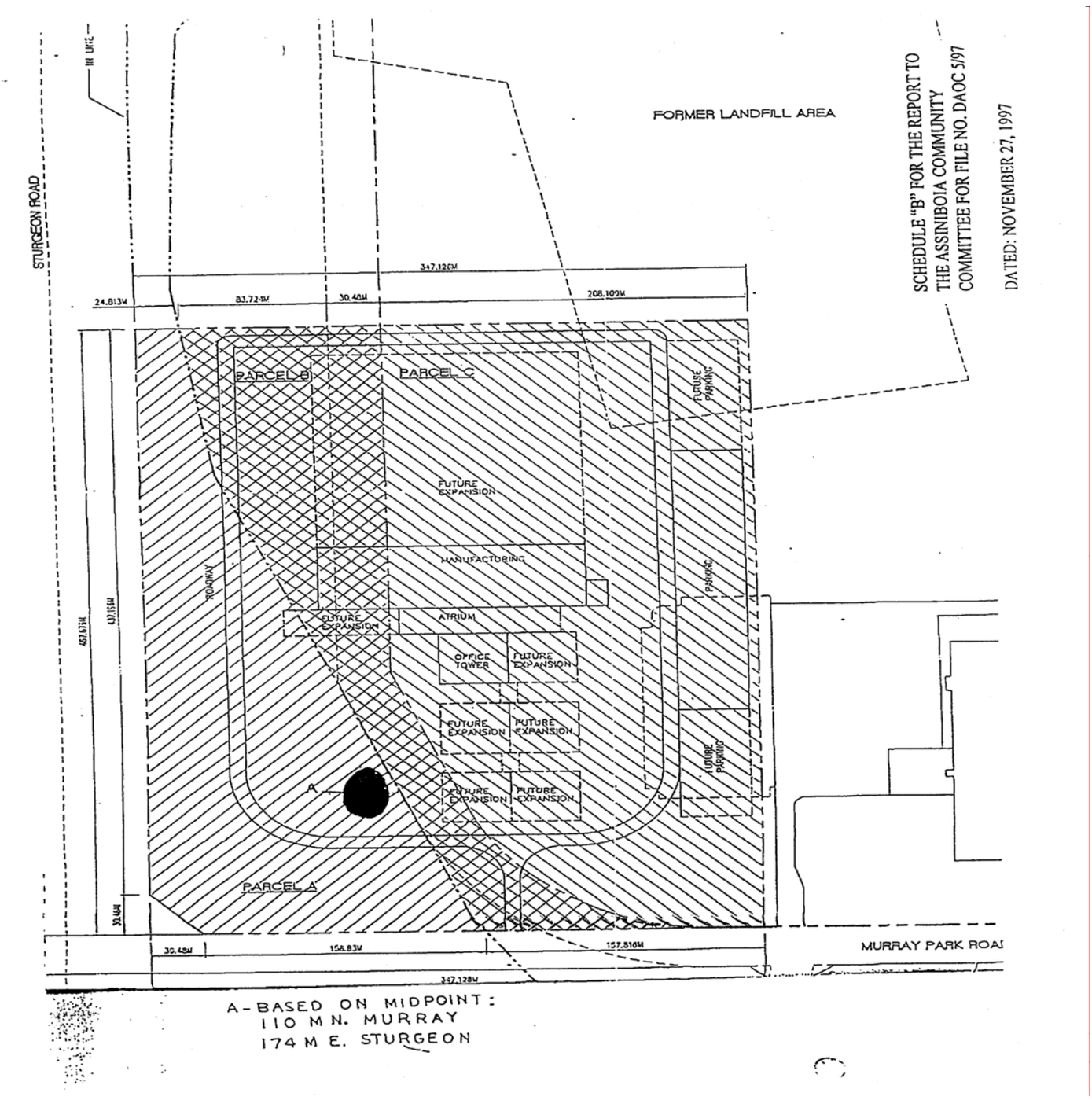
DATED: OCTOBER 27, 1997

287 - Schedule “A” referred to in Clause 3 of the Standing Policy Committee on Property and Development dated January 5, 1998

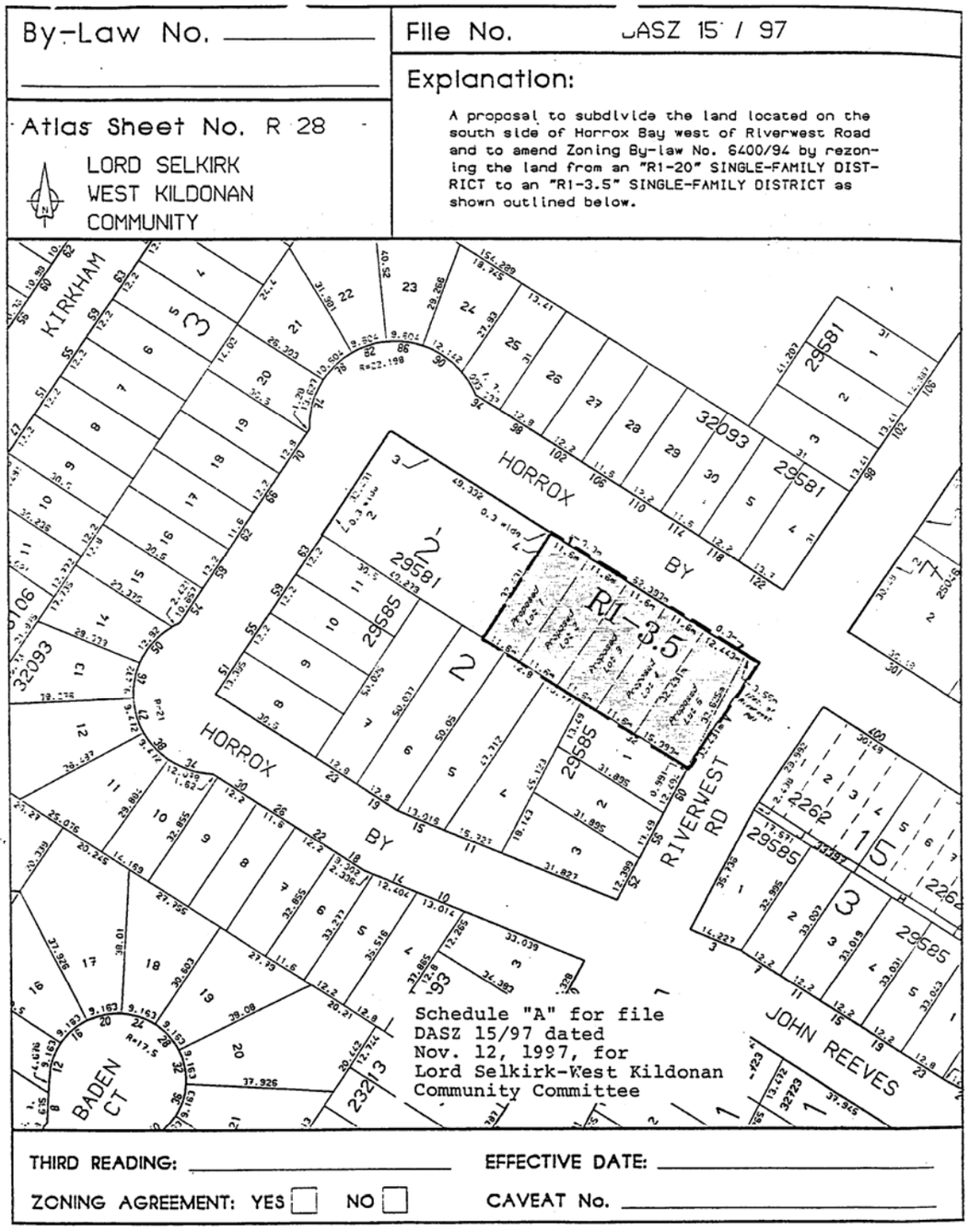


SCHEDULE "A" FOR THE REPORT TO THE ASSINIBOIA COMMUNITY COMMITTEE
FOR FILE NO. DAOC 5/97
DATED: NOVEMBER 27, 1997

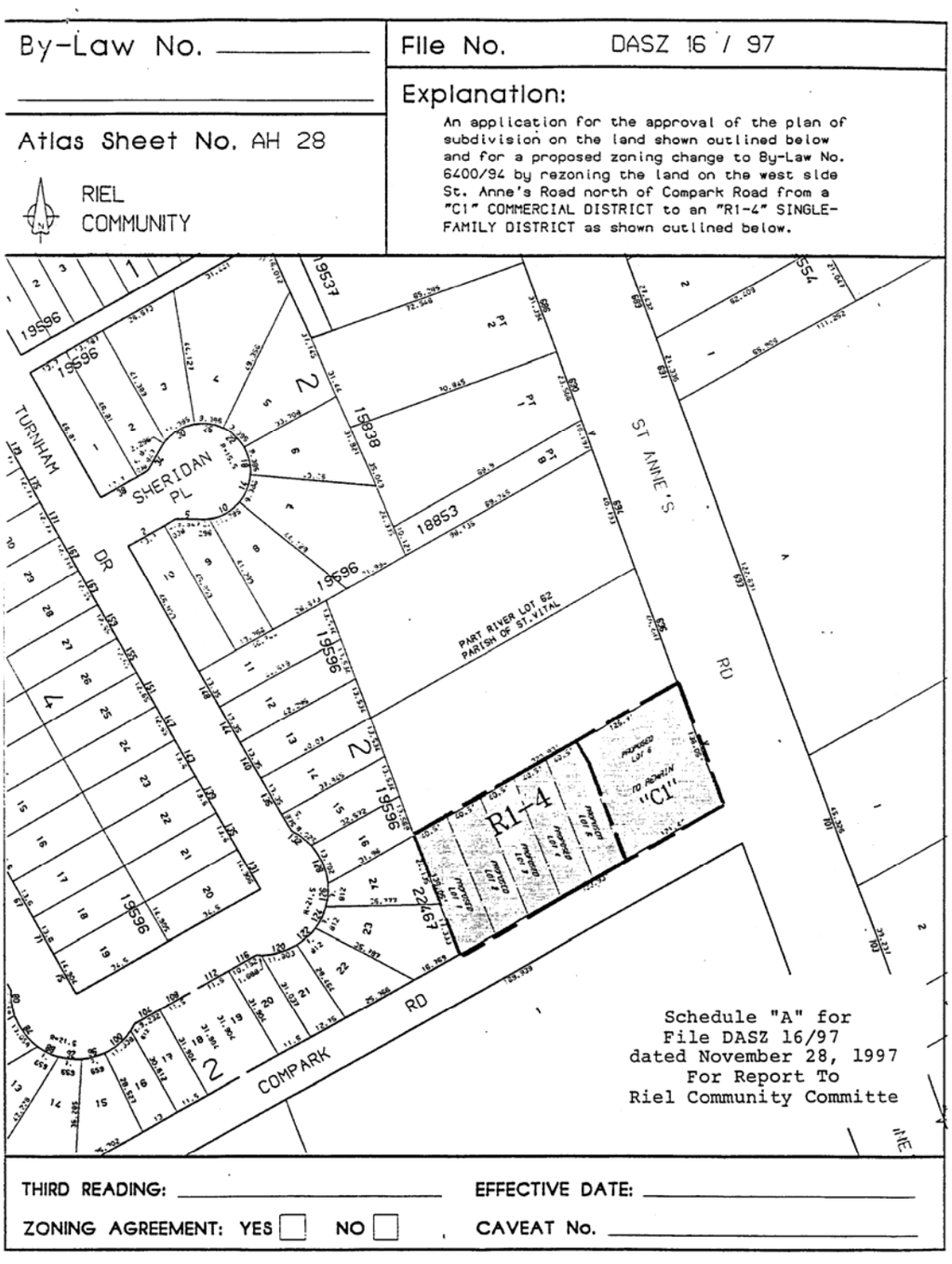
Schedule “B” referred to in Clause 3 of the Standing Policy Committee on Property and Development dated January 5, 1998



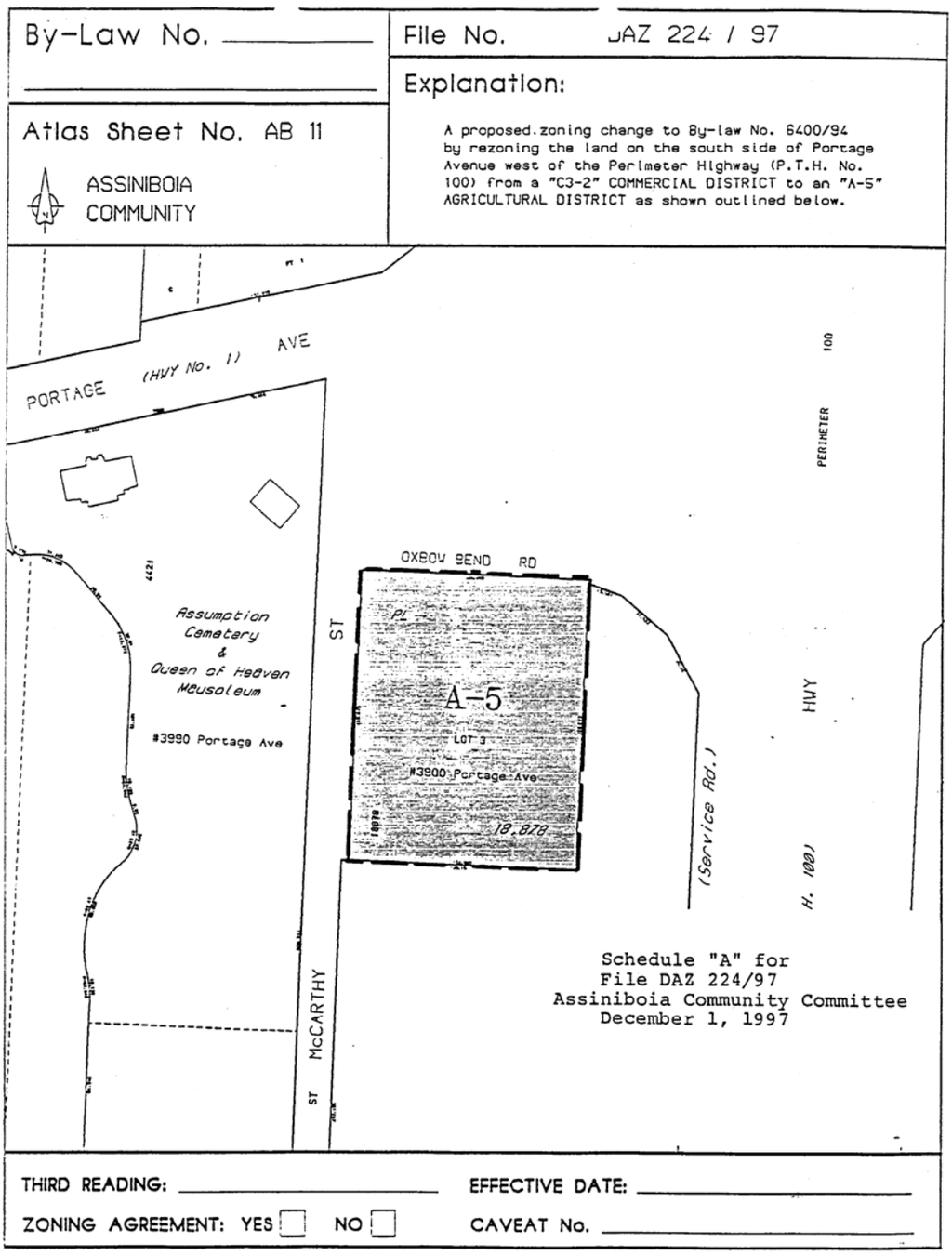
288 - Schedule “A” referred to in Clause 4 of the Standing Policy Committee on Property and Development dated January 5, 1998



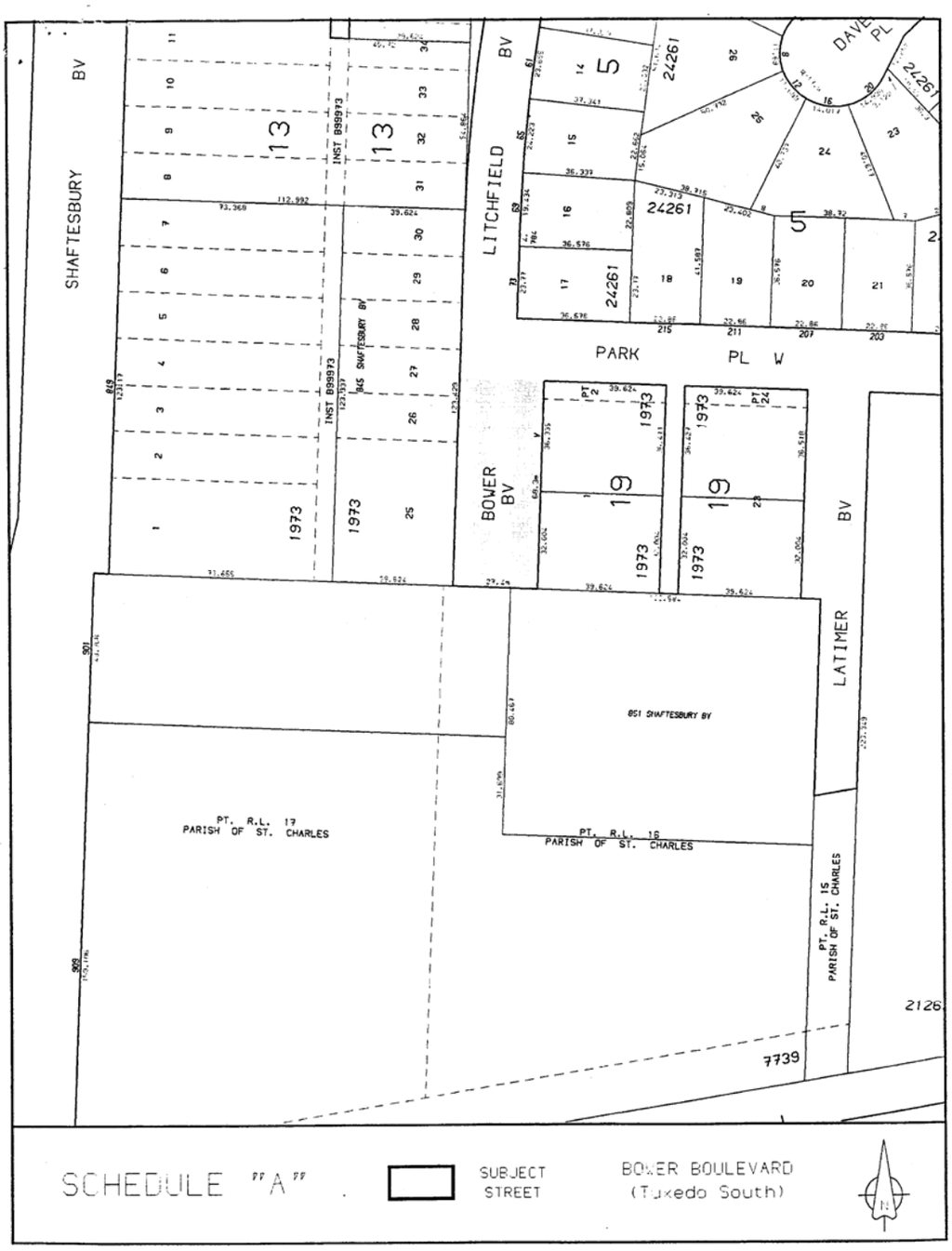
289 - Schedule “A” referred to in Clause 5 of the Standing Policy Committee on Property and Development dated January 5, 1998



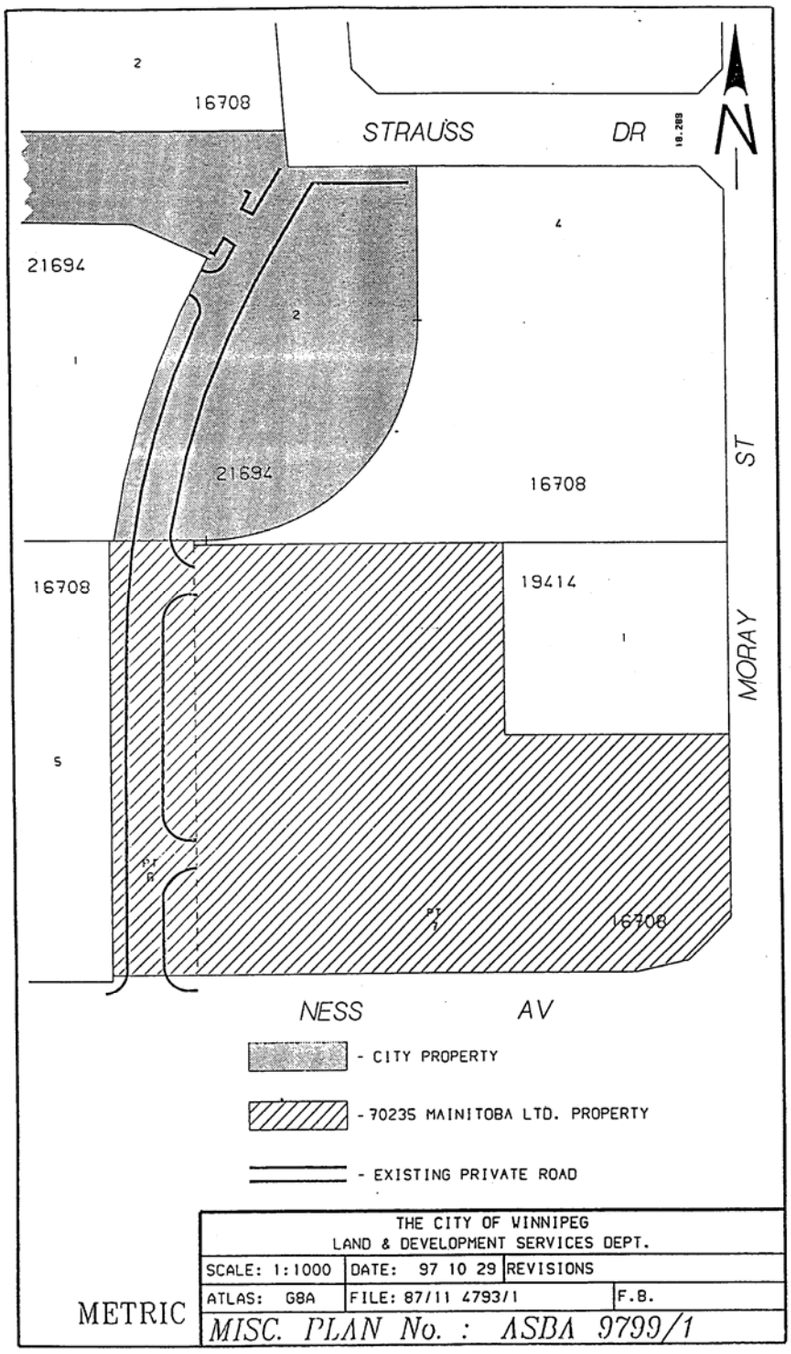
290 - Schedule “A” referred to in Clause 6 of the Standing Policy Committee on Property and Development dated January 5, 1998



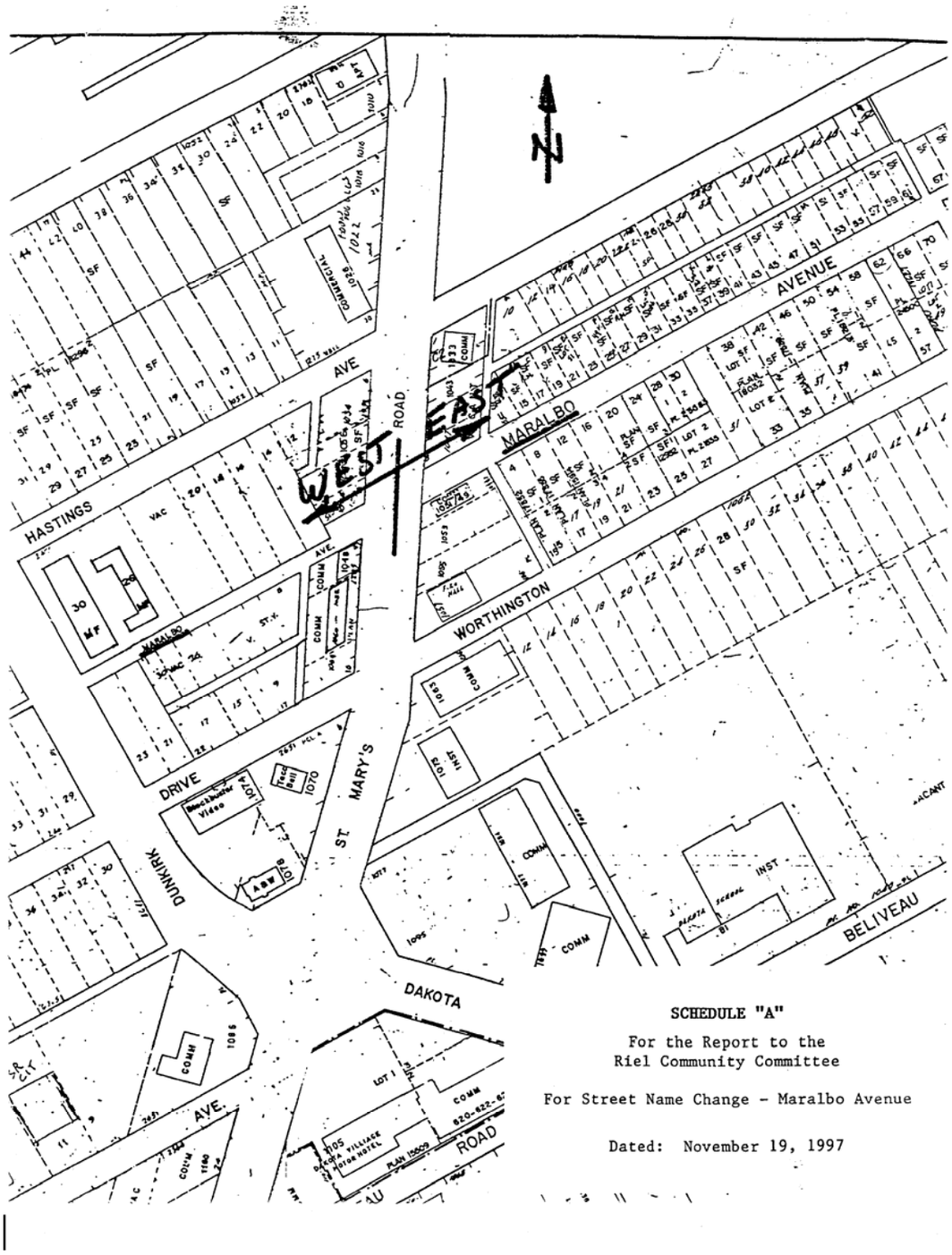
291 - Schedule “A” referred to in Clause 10 of the Standing Policy Committee on Property and Development dated January 5, 1998



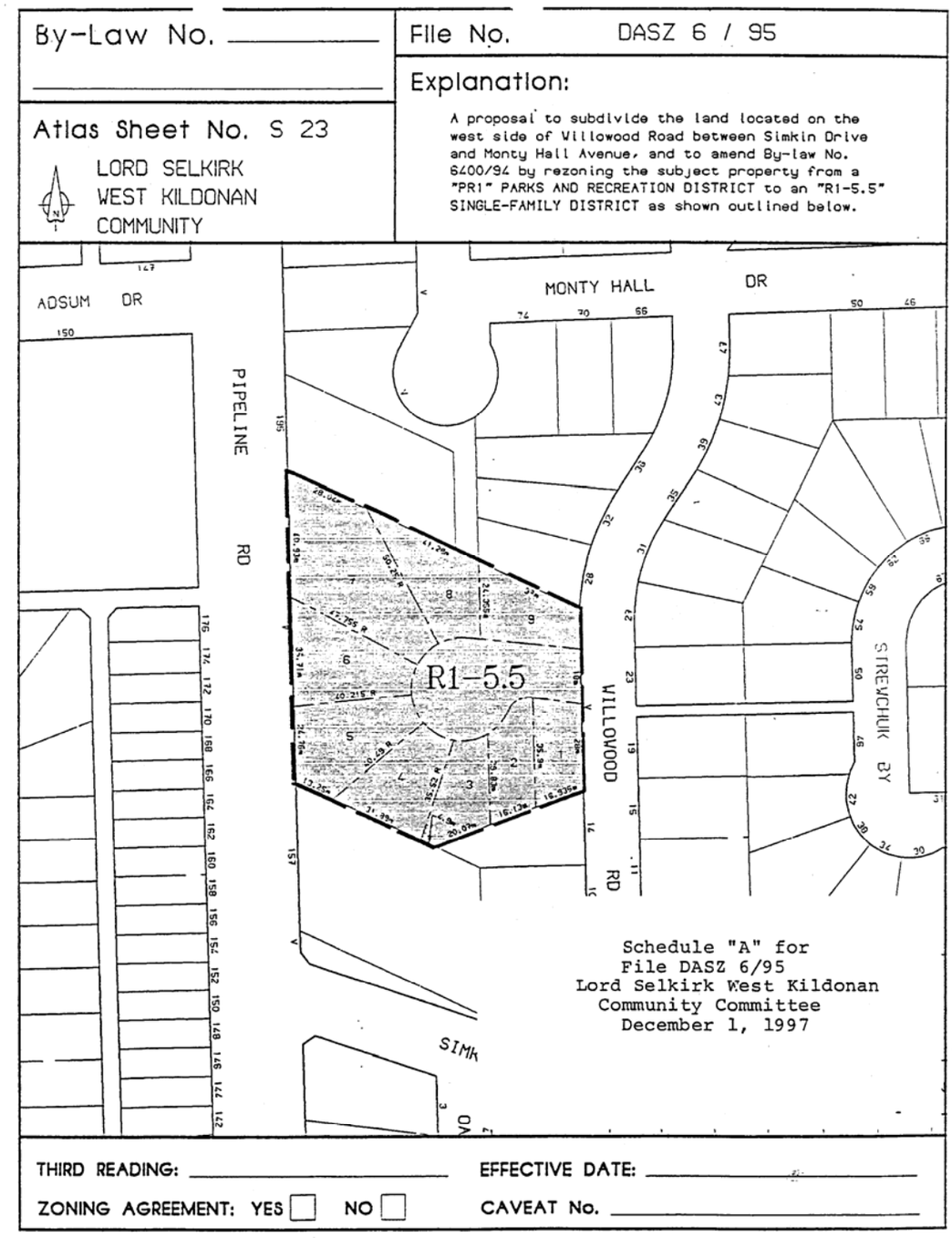
292 - Schedule “A” referred to in Clause 11 of the Standing Policy Committee on Property and Development dated January 5, 1998



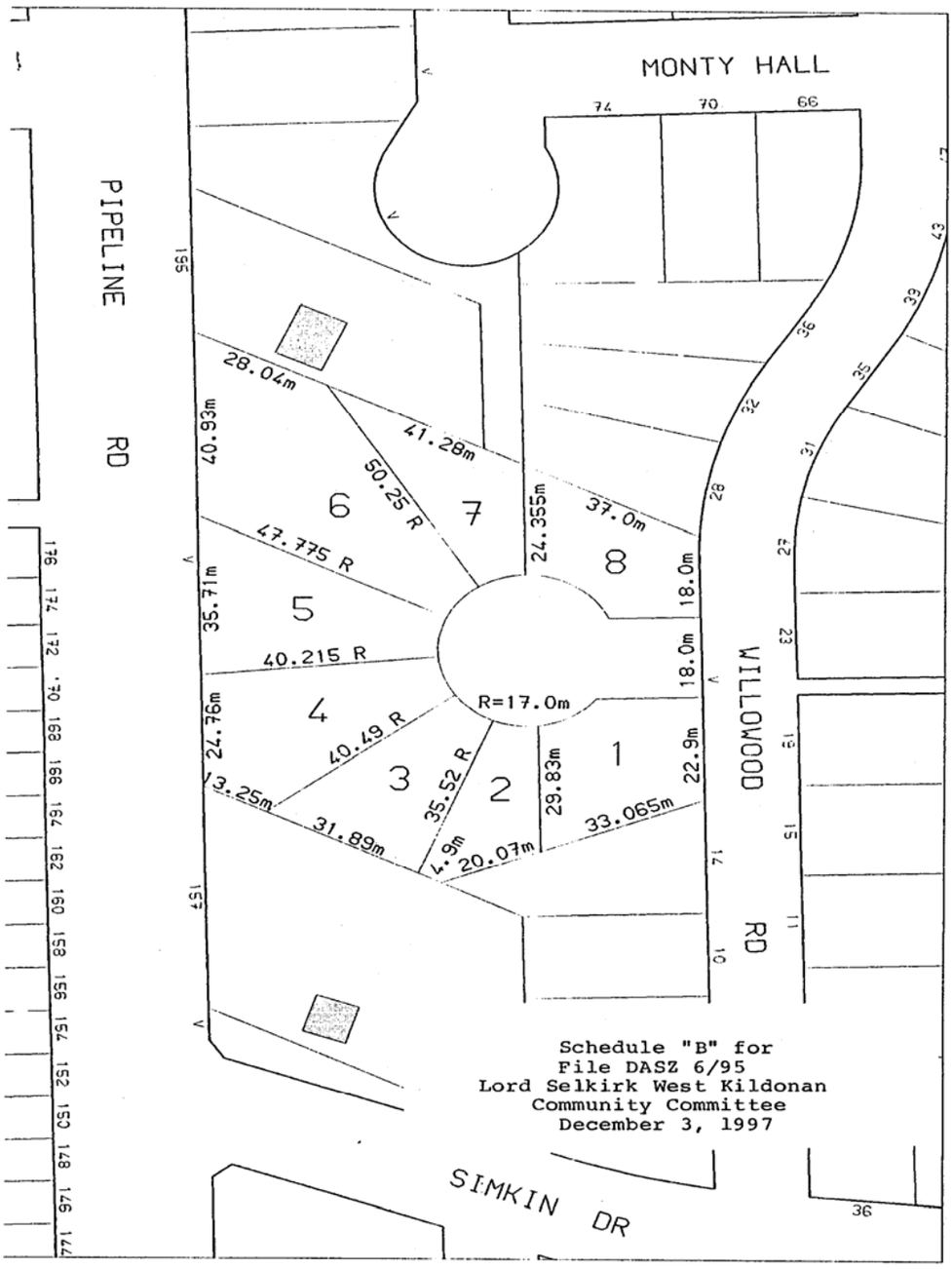
293 - Schedule “A” referred to in Clause 12 of the Standing Policy Committee on Property and Development dated January 5, 1998



294 - Schedule “A” referred to in Clause 1 of the Standing Policy Committee on Property and Development dated January 6, 1998



Schedule “B” referred to in Clause 1 of the Standing Policy Committee on Property and Development dated January 6, 1998



295 - Schedule "A" referred to in Clause 4 of the Standing Policy Committee on Property and Development dated January 6, 1998

Lands Located South of Taylor Avenue at Nathaniel Street File FI-2.4(32) (Vol. 5)

1. On August 6, 1997, the Land and Development Services Department received an Offer to Purchase certain city-owned property lying on the south side of Taylor Avenue in the vicinity of Nathaniel Street from Shindico Realty Inc. Shindico advised, at that time, that its Purchaser had:

> "secured the adjacent land and is now pursuing the irregular shaped City of Winnipeg lands to create a workable development site. Time is of the essence in securing the City of Winnipeg lands as the Purchaser is pursuing the Royal Bank Call Centre as a potential occupant of the subject property. Additional lands were required in order to create a large enough parcel for a "campus like setting" as requested by the Royal Bank."

Shindico requested the City to grant authority to the Purchaser to include the city-owned lands in its response to the Royal Bank Proposal Call advising that proposals were to be submitted on August 18, 1997 with construction to commence in October 1997 and occupancy of the facility to be June, 1998.

The Department advised the Board of Commissioners by Report dated August 13, 1997 that the Department had received not only the Shindico request but several similar requests from a number of other parties who also wanted to include city-owned lands in their submissions respecting the Royal Bank Proposal Call. The Department advised that the City cannot provide such a commitment in so short a period of time (essentially just a few working days) as: none of the properties had been declared surplus to city needs; at least one of the properties (a part of the Shindico Offer) included land under the jurisdiction of the Parks and Recreation Department; several of the sites required a successful legal closure of certain streets and lanes; there was inadequate time to examine the properties, to develop a position on terms and conditions including price, to negotiate a settlement and to process the results of the negotiations to Council.

After consultation with the Board of Commissioners the Department advised all applicants that they were not given exclusive authority to submit the subject property for the Royal Bank Call Centre Proposal, however, the Department would deal with their Offers on the subject properties and take them through the normal procedures.

In so far as the Shindico Offer is concerned, the Department has canvassed the various departments as to city need for this property. City Hydro, who own part of the land at its most eastern boundary, is prepared to redefine its transmission line right-of-way requirements to some extent at this location. Of those Departments which responded no other Department expressed a need for this land. The Transit Department, however expressed a concern as to the location of a Call Centre at this location.

The City Centre Community Committee considered this matter at its meeting held on October 7, 1997 and advised the Committee on Protection, Parks and Culture that the Community Committee had no objection to the sale of these lands and recommended that the sale be proceeded with.

The Land and Development Services Department has initiated a proposal to close the portion of the subject streets and lanes which are within the boundaries of the proposed site. None of these streets and lanes physically exist. The land is vacant and unimproved. Although this process has been started the proposed legal street closing can not be finalized until such time as: a small privately owned property, owned by Brian Richard Speed, is acquired by either the City or Shindico; suitable arrangements are negotiated with Manitoba Hydro who also own certain lands at this location;

The department has investigated the developability of the subject City-owned property and appraised the subject City-owned property.

The Land and Development Services Department has since been verbally advised that the Royal Bank has chosen the Shindico proposal, and as such, the Royal Bank Call-In Centre is to be constructed at a location lying on the south side of Taylor Avenue and to the west of Nathaniel Street. However, the Department has also been informed that the Centre will not be constructed on the subject City-owned property. Misc. Plan No. 10090/7 (Exhibit "A") illustrates that the Call-In Centre is to be constructed on the area shown cross-hatched and which is owned or controlled by Shindico's client. The Shindico site will be improved with a 50,000 square foot single storey office structure and with a 457 stall parking lot.

Shindico advised that it had preferred to locate the Centre on the City-owned property but given the timing of the Proposal Call and the timing of the impending construction decided to relocate the

development to its own adjacent lands. Notwithstanding this decision Shindico also stated that it continues to view the acquisition of the City's land as critical and essential to its development at this location as the land is required to provide additional parking, extensive landscaping, and to create a campus-like setting.

The Committee on Finance and Administration has been advised that in reviewing the applicant's Offer, the Land and Development Services Department had the following comments:

1. The price offered is not acceptable to the Department given the Department's internally produced appraisal. The Department suggests that the price that the City should achieve in the sale of this property should range between $775,000.00 and $965,000.00 with a sale price at the low end of the range being acceptable. This value range is predicated on the existing zoning. Should a rezoning be contemplated then the resulting costs, including dedication, arising out of the rezoning application should be borne by the purchaser.

2. The Offer reflects an area of 6 acres. However, the site area as calculated by the Department is 6.6 acres as shown as Subject Property on the attached Misc. Plan No. 10090/7.

3. The deposit would need to be increased to a level commensurate with the renegotiated sale price.

Schedule "A" referred to in Clause 4 of the Standing Policy Committee on Property and Development dated January 6, 1998 (continued)

4. *The date of closing, adjustments and possession is to be up to 12 months after the Council approval date. Although this provision is not in accordance with the City's standard Offer to Purchase the Department is supportive of this proposed term because it will be necessary: for the City to legally close certain streets and lanes, and; for either Shindico or the City to acquire the single private holding and to negotiate suitable arrangements with Manitoba Hydro respecting their holdings within the parcel of land desired by Shindico.*

   Shindico has stipulated in its Offer that it by written Notice to the City accelerate the Date of Closing to a date not sooner than 10 business days following the date of the closing notice. The Department advises that this condition as written is not acceptable having regard for the street closing process. The Department advises that the Closing Notice can be no earlier than the date of enactment of the street and lane closing Bylaw. The Agreement of Sale will have to reflect this revision;

5. *The Offer specifies an 11 month "due diligence/conditions precedent" period from the Date of Approval. The purchaser has advised that its due diligence investigations/applications will include the following:*

   - *obtaining of necessary zoning;*
   - *that they be permitted to construct thereon all intended buildings and improvements;*
   - *that they obtain all required rights of ingress and egress;*
   - *that they have the right to construct, install, and connect all municipal services required for the project;*
   - *environmental and soil investigations;*
   - *finalize development plans to their satisfaction.*

Schedule "A" referred to in Clause 4 of the Standing Policy Committee on Property and Development dated January 6, 1998 (continued)

The purchaser reserves the right to in its sole and unfettered discretion be satisfied or waived by it, in whole or in part, at any time in writing.

Again, this time period is not in accord with the City's standard period but an extended due diligence period is acceptable to the Department for the same reason earlier stated. The Department is concerned that the Closing Period (30 days following the end of the due diligence period) may be inadequate to deal with any complications arising out of: environmental testing; the street and lane closing process; the creation and registration of a subdivision plan; etc.

The Department suggested that the due diligence period be no more than 10 months and that the closing period be no more than an additional 2 months with the ability to extend the closing period as required.

6. *The applicant has specified that it requires the City to deliver a subdivision plan complete with all necessary streets and lane closings, to be prepared at the City's expense to effect transfer to the purchaser as 1 lot at the date of closing. Furthermore, the purchaser has stated that it will not be responsible for the payment of any dedication and/or fees of any sort associated with the creation and preparation of a plan of subdivision.*
The Department can not recommend acceptance of this term because any acceptance must be a function of market value. If Shindico is prepared to acquire this property at the price that the Department is recommending then the Department is prepared to accept this term.

In order to finalize a subdivision plan it will be necessary to acquire the private holding and to negotiate the resolution of the Manitoba Hydro interest potentially by acquisition.

7. *The Offer does not include any obligation on the purchaser's part to construct a structure on the land within any given time or at all.*

The Department would support this position if the purchaser was agreeable to paying the Department's recommended sale price for the property;

8. *The purchaser has specified that upon Council's approval the purchaser is then entitled to assign, transfer and convey its right, title and interest in the Agreement to such persons, firms or corporations as it may determine provided that such assignee or transferee shall be bound by the terms of this Offer and the Agreement resulting from its acceptance.*

Schedule "A" referred to in Clause 4 of the Standing Policy Committee on Property and Development dated January 6, 1998 (continued)

The Department would be agreeable to an assignment if the assignment was subject to the prior approval of the Committee on Finance and Administration.

9. *The Offer requires the City to close the streets and lanes to effect this transfer. The Offer does not acknowledge that the proposed closure may not be successful. As a result the Department requires that the sale be "subject to" a successful street and lane closing application.*

The Committee on Finance and Administration was also advised that the Department was of the view that in the event that Shindico is not prepared to negotiate on the basis of the Department's suggested sale price and other amendments (as outlined herein) to the terms offered then the Department was of the view that the property should be placed for sale on the open market.

The costs of acquiring the Brian Richard Speed and the Manitoba Hydro properties would be charged against the Land Operating Reserve Account.

The Committee on Protection, Parks and Culture, at its special meeting held on October 14, 1997, was advised that a portion of this property, as identified on Plan No. 25-97 (Exhibit "B") and consisting of approximately 1/4 of an acre in size, is under the jurisdiction of the Parks and Recreation Department. The property is currently undeveloped and exists in a level graded condition.

Schedule "A" referred to in Clause 4 of the Standing Policy Committee on Property and Development dated January 6, 1998 (continued)

The Committee on Protection, Parks and Culture was advised that given that the Neighborhood is above the minimum open space standard, and, that the existing parkland is distributed within the Neighborhood, and, that the property is only approximately 1/4 acre in size, and that the property is situated within the middle of a large track of land that is to be redeveloped, and, that it would have only served a residential area to the south of Taylor Avenue which is not going to occur, the Parks and Recreation Department was supportive of recommending that the subject property be disposed of accordingly.

The Committee on Protection, Parks and Culture recommended that the city-owned property (4 lots) located on the northwest corner of Nathaniel Street and Parnell Avenue, as identified on Plan No. 25-97 (Exhibit "B"), be declared surplus to the City's requirements, and be disposed of accordingly.

The Committee on Finance and Administration has considered this matter and recommends:

I. *That the subject City property as shown on Misc. Plan No. 10090/7 be declared as surplus to the City's needs.*

II. *That the subject City property, being approximately 273,643 square feet as shown on Misc. Plan No. 10090/7 (including currently open streets and lanes and including the Brian Richard Speed Property - not including the Manitoba Hydro Properties) be sold to 3177778 Manitoba Ltd. subject to the terms and conditions as outlined on Exhibit "C".*

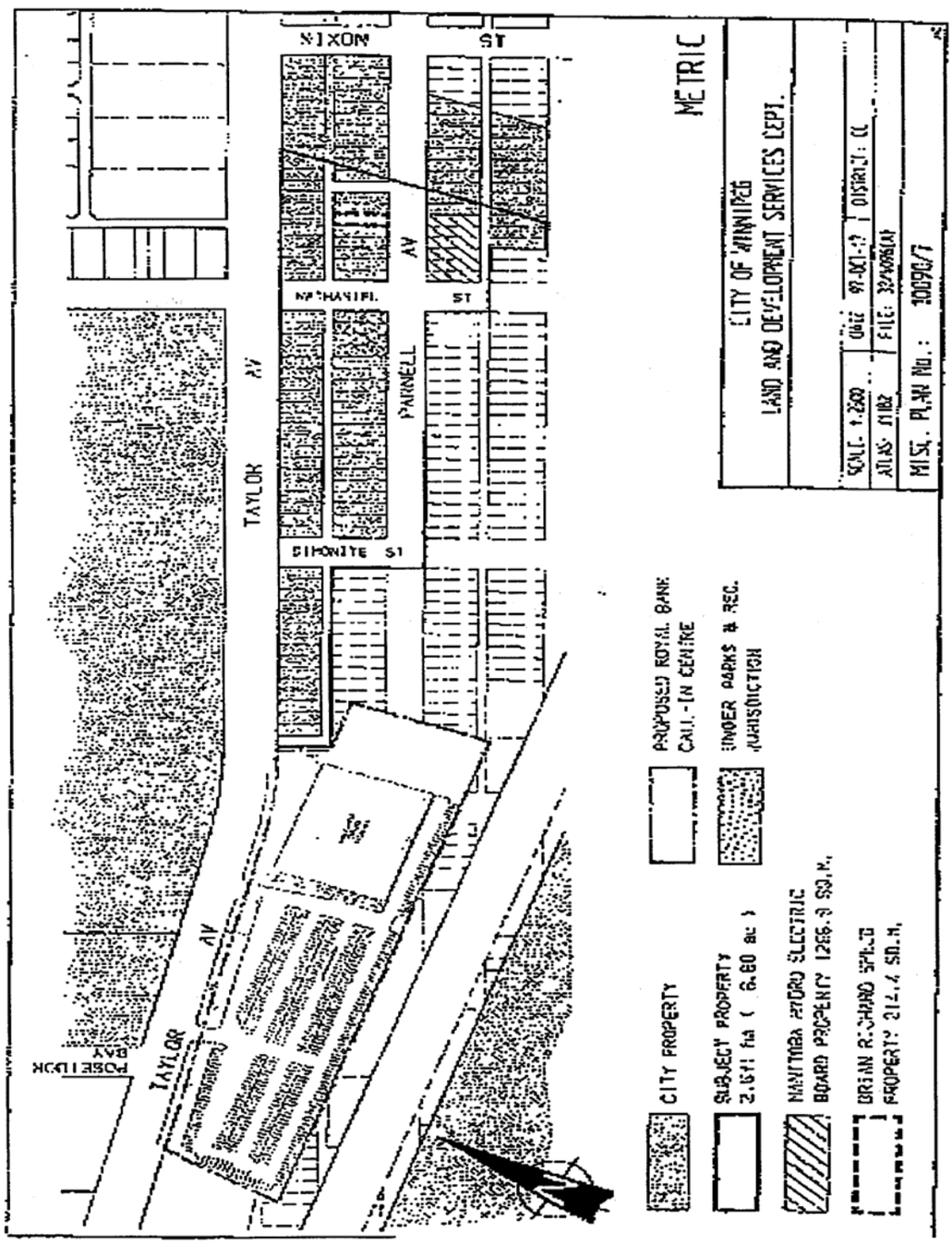
III. *That the Director of Land and Development Services be authorized to negotiate the acquisition of the Brian Richard Speed property as shown on Misc. Plan No. 10090/7 for the purposes of consolidating the City's lands.*

IV. *That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing, including the execution of any documents related hereto.*

Pursuant to Section 156(2) of The City of Winnipeg Act, approval of at least two-thirds of the members of the Council is required on the sale of any property that has been designated or acquired for park purposes.

Copy of attachments referred to in the above clause are on file in the office of the City Clerk.

ADOPTED BY COUNCIL
- October 22, 1997


NIXON
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POSEIDON
BAY
METRIC
CITY OF WINNIPEG
LAND AND DEVELOPMENT SERVICES DEPT.
CITY PROPERTY
SUBJECT PROPERTY
MANITOBA HYDRO ELECTRIC
BOARD PROPERTY
PROPOSED ROYAL BANK
CALL-IN CENTRE
UNDER PARKS & REC.
JURISDICTION

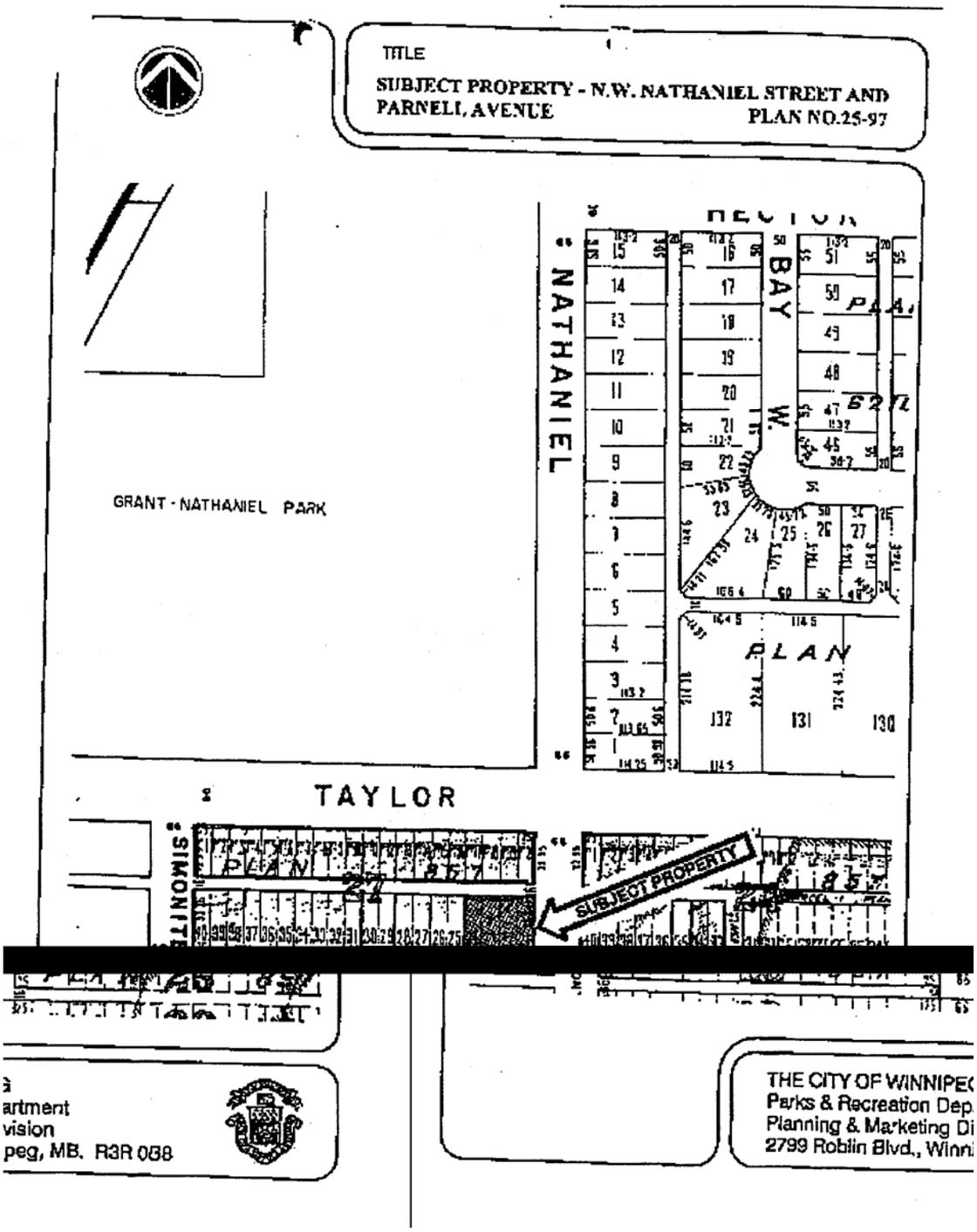
TITLE
SUBJECT PROPERTY - N.W. NATHANIEL STREET AND PARNELL AVENUE
PLAN NO.25-97
GRANT - NATHANIEL PARK
NATHANIEL
BAY
W.
PLAN
TAYLOR
SIMONITE
SUBJECT PROPERTY
THE CITY OF WINNIPEG
Parks & Recreation Dep
Planning & Marketing Di
2799 Roblin Blvd., Winni

Exhibit “B”

Proposed terms and conditions for the sale of the city-owned property as outlined on Misc. Plan No. 10090/7

1. Sale Price - $230,530.54 ($0.84245 per square foot)

2. Deposit -
   a) 10 % of the approved sale price payable upon Council approval;
   b) to be non-refundable if the Option is not exercised;
   c) to be refundable if the City cannot finalize the proposed street and lane closings and the acquisition of the two non-city owned properties included in parcel "B" as shown on the attached Misc. Plan No. 10090/10;
   d) to be applied to the Sale Price if the Option is exercised;

3. Term of 5 years commencing on the date of approval by Council. The Option can be exercised at any time during the option period but not prior to Council's approval of the Street and Lane Closing By-law;

4. The Closing / Possession / Adjustment Date to be concurrent and to be no later than 2 months after the exercise of the Option;

5. Any "due diligence" required by the Purchaser is to be carried out during the Option Period;

6. Sale is subject to a successful street and lane closing application respecting the currently open streets lying within this parcel of land;

7. The sale is subject to the successful acquisition by the City of the Brian Richard Speed Property lying within the said lands;

8. The Purchaser is fully responsible for all activities and associated costs to create a plan of subdivision and to legally close the streets and lanes including but not limited to:
   a) the cost of subdivision plan preparation and registration;
   b) any and all costs associated with the legal and physical closing of the open rights-of-way lying within the subject parcel of land;
   c) any dedication fees payable in connection with the creation of this subdivision;
   d) etc.

9. The Purchaser will be responsible for all costs of developing the subject property including the servicing of the land;

10. The Purchaser will be acquiring the land in an "as-is, where-is condition" and will satisfy itself as to zoning, access, environmental, conditions, etc;

11. The Purchaser will be responsible for any and all costs associated with applications related to rezoning, variances, conditional uses, etc. including the

payment of any dedication fees owing, application and processing costs, etc.;

12. The Purchaser will pay all GST payable in this transaction or will supply the City with its GST Registration Number;

13. Until the Closing Date and the full payment of the Sale Price an assignment of the Purchaser's interests in the subject land will be subject to the prior approval of the Committee on Finance and Administration;

14. The transfer of the land will be subject to such easements as are required by the City or the Utilities;

15. The Purchaser will accept title subject to all exceptions, reservations and encumbrances expressed or implied in the City's Title;

16. The Purchaser will obtain possession of the lands at the Purchaser's own expense;

17. The sale is subject to the final approval of Council;

18. The Purchaser and the City will enter into an Option to Purchase Agreement which will formalize these fundamental terms and which will include such other terms as are deemed necessary by the City Solicitor to achieve the intent of Council and to protect the City's interests;

19. The sale of the subject property will be subject to a caveated restriction specifying that this land will be used only as part of the Royal Bank Call-In Centre development;

20. It is acknowledged by both parties that the proposed sale price is preferential having regard for the Royal Bank Call-In Centre Project and is not to be construed as representing market value.

Schedule “B” referred to in Clause 4 of the Standing Policy Committee on Property and Development dated January 6, 1998

