Agenda - Council - July 18, 2007

Report - Standing Policy Committee on Property and Development - June 26, 2007

Item No. 6 Subdivision and Rezoning – 35 Prospect Road (Charleswood-Tuxedo Ward) File DASZ 13/2007

STANDING COMMITTEE RECOMMENDATION:

On July 11, 2007, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submits the following to Council:

1. That the plan of subdivision under File DASZ 13/2007 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "B" for File DASZ 13/2007 dated May 28, 2007, for registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "B" for File DASZ 13/2007 dated May 28, 2007, to an 'R1-5' Single Family Residential District.

3. That a ten (10%) percent 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 market value of the land.

4. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

5. That the City owned property shown in broken outline and identified as "Subject City Property" on Misc. Plan No. 13010/1, be declared surplus to the City's needs.

6. That the Director of Planning, Property and Development be authorized to negotiate and approve the sale of the "Subject City Property" as shown in broken outline on Misc. Plan No. 13010/1 to the applicant on terms and conditions satisfactory to the Director of Planning, Property and Development and the City Solicitor/Manager of Legal Services in order to protect the interests of the City.

7. 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.

Report - Standing Policy Committee on Property and Development - June 26, 2007

8. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

9. That the subdivision section of the by-law shall come into force and effect upon registration of the Plan of Subdivision in the Winnipeg Land Titles Office.

10. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office.

11. That the Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

12. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

13. 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 - June 26, 2007

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 11, 2007, 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 June 26, 2007, 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 June 12, 2007, the Assiniboia Community Committee concurred in the administrative recommendation with the following amendments, namely:

- Amend Recommendation 1. by substituting the words “Schedule “A”” with the words “Schedule “B””.

- Amend Recommendation 2. by substituting the words “Schedule “A”” with the words “Schedule “B””.

- Amend Recommendation 5. by substituting the number “13010” with the number “13010/1”.

- Amend Recommendation 6. by
  - substituting the number “13010” with the number “13010/1”,
  - deleting the words “and to achieve the intent of the Standing Policy Committee on Property and Development”;

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

Re: **Subdivision and Rezoning – 35 Prospect Road**
File DASZ 13/2007

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

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

Report date: **June 13, 2007**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 12, 2007, the Assiniboia 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 13/2007 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with ~~***"Schedule A"***~~ ***"Schedule B"*** for File DASZ 13/2007 dated May 28th, 2007, for registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on ~~***"Schedule A"***~~ ***"Schedule B"*** for File DASZ 13/2007 dated May 28th, 2007 to an 'R1-5' Single Family Residential District.

3. 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 market value of the land.

4. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

5. That the City owned property shown in broken outline and identified as "Subject City Property" shown on Misc. Plan No. ~~***13010***~~ ***13010/1*** be declared surplus to the City's needs.

6. That the Director of Planning, Property and Development be authorized to negotiate and approve the sale of the "Subject City Property" as shown in broken outline on Misc. Plan No. ~~***13010***~~, ***13010/1,*** to the applicant on terms and conditions satisfactory to the Director of Planning, Property and Development and the City Solicitor/Manager of Legal Services in order to protect the interests of the City ~~***and to achieve the intent of the Standing Policy Committee on Property and Development***~~t.

7. 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.

8. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

9. That the subdivision section of the by-law shall come into force and effect upon registration of the Plan of Subdivision in the Winnipeg Land Titles Office.

10. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office.

11. That the Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

12. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

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

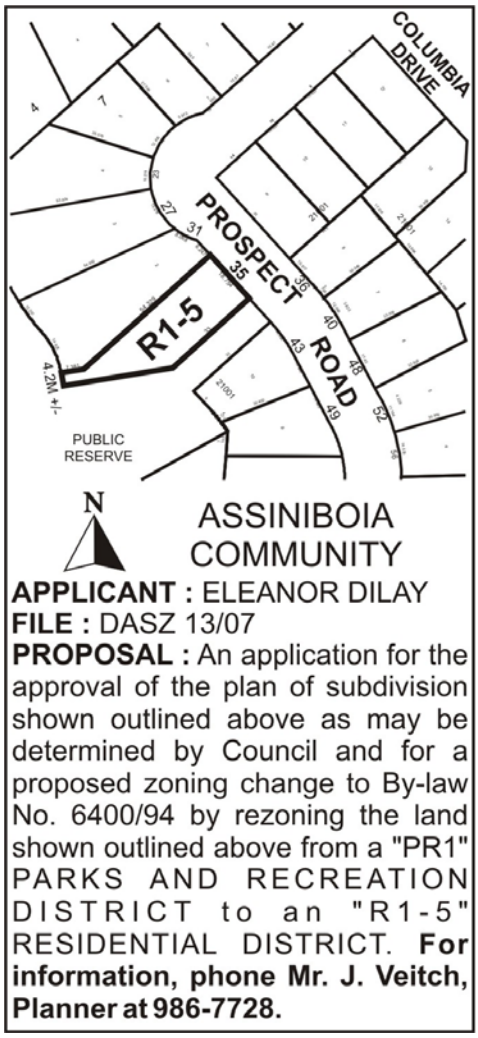
1. The adjoining neighbour has told the Community Committee that there are no deleterious effects on his property as a result of the amendment and there is not opposition to the application.

PUBLIC HEARING SUMMARY

File: DASZ 13/2007

Applicant: Eleanor June Dilay

Subject:



Premises Affected: 35 Prospect Road

Exhibits Filed:

1. Application dated April 11, 2007
2. Notification of Public Hearing dated May 8, 2007
3. Manitoba Statuses of Titles 1045784, 1474917
4. Letter of authorization dated April 11, 2007 from Antonio Dreolini to Eleanor June Dilay
5. Letter of authorization dated October 26, 2006 from The City of Winnipeg Real Estate Division to Eleanor Dilay and Antonio Dreolini
6. Surveyor's Building Location Certificate and sketch dated November 25, 1996
7. Caveat 87-65772
8. Misc. Plan No. 13010
9. Report from the Planning and Land Use Division dated May 28, 2007
10. Schedule "B" to the report to the Assiniboia Community Committee for File DASZ 13/2007, dated May 28th, 2007
11. Inspection Report
12. Misc. Plan No. 13010/1

REPRESENTATIONS:

In Support:

Antonio Dreolini

In Opposition:

Nil

For Information:

Wadood Ibrahim

For the City:

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

SUMMARISATION OF REPRESENTATIONS AND SUBMISSIONS MADE AT THE PUBLIC HEARING:

The applicant, Antonio Dreolini, appeared in support of the application and provided a brief overview of the proposal.

Mr. Dreolini further advised that he had been contacted by the owner of the neighbouring property at 31 Prospect Road regarding their access to the park and lake at the rear of their property, which would be closed should the proposal be approved. In order to accommodate his neighbours concern, Mr. Dreolini requested that the application be amended in as indicated in Schedule “B” to allow his neighbour to maintain access to the park and lake.

Wadood Ibrahim appeared for information with respect to the application. Mr. Ibrahim stated that he had spoken with the applicant regarding his concern that the application would close his access to the park and that they were able to reach an amicable resolution.

Exhibit "9" referred to in File DASZ 13/2007

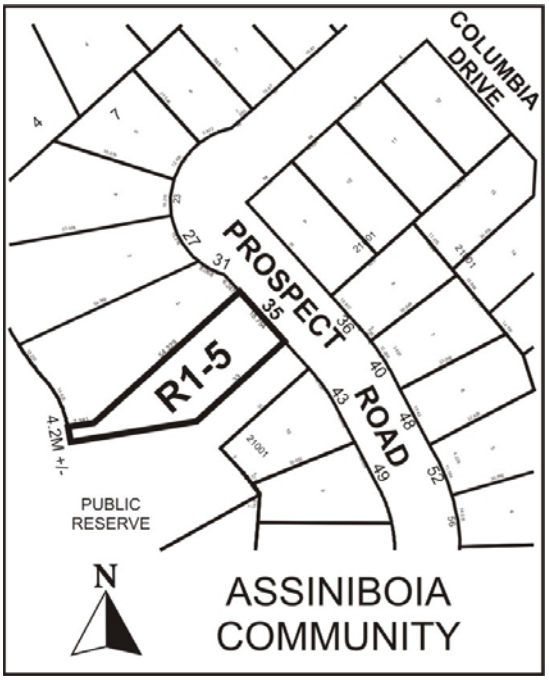
Planning, Property and Development Department Report

To the Assiniboia Community Committee

Date: May 28th, 2007
File: **DASZ 13/07**
Related Files: N/A

Subject: To Rezone a 1,542.6 s.f. parcel of land from 'PR1' Parks and Recreation to 'R1-5' Single Family Residential and consolidate the parcel with an existing 'R1-5' Single Family Residential lot.

Location: 35 Prospect Road
Legal Description: Lot 1, Plan 21001



4068

Applicant: Eleanor Dilay
Owner: Eleanor Dilay & City of Winnipeg

Recommendation: Approval with Conditions

Site Description

The application deals with two parcels; an existing residential lot with a dwelling unit zoned 'R1-5' Single Family and a proposed 1524.6 square foot +/- parcel zoned 'PR-1' Parks and Recreation. The sites are located in the Whyte Ridge Neighbourhood of the Assiniboia Community.

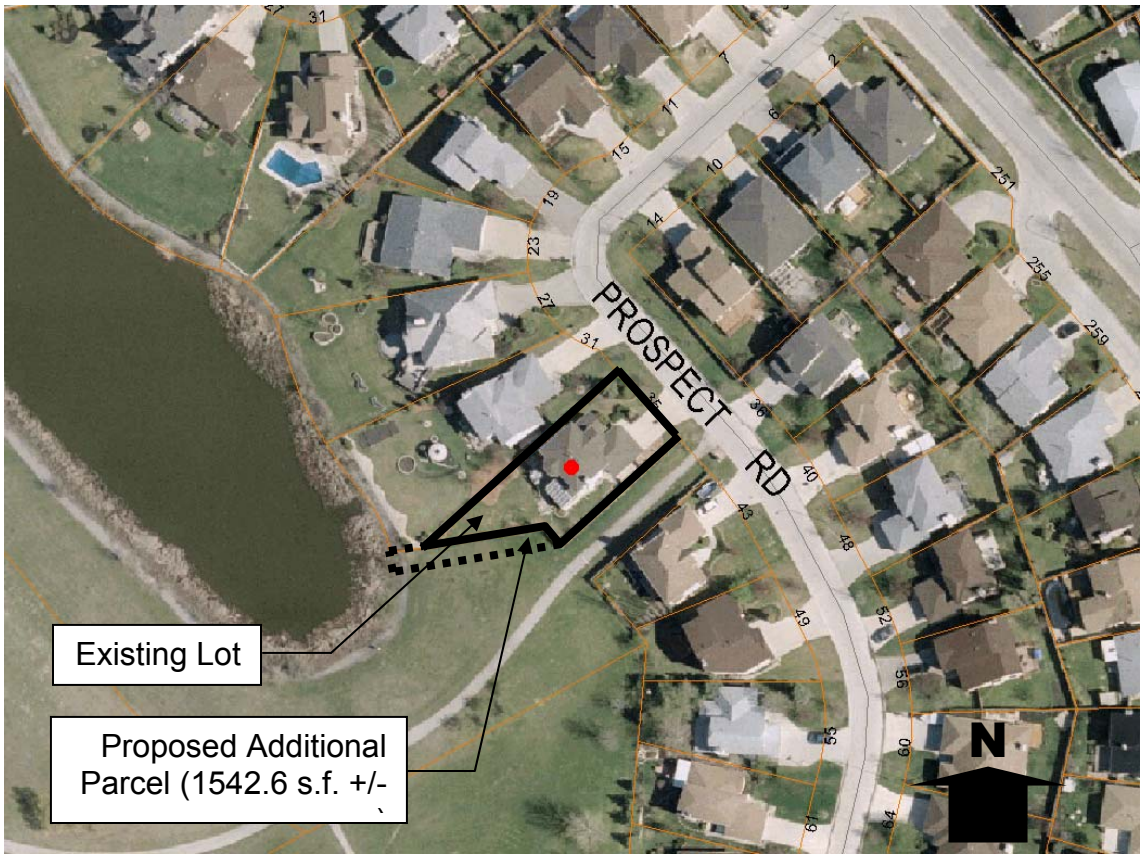


Figure 1: Subject Sites (Aerial Flown 2005)

Description of the Proposed Development

The applicant resides at 35 Prospect Road and wishes to purchase an approximately 110.63 foot long by 13.78 wide strip of land (1524.6 s.f. +/-) from the City of Winnipeg. The intention is to expand their back yard to allow for the installation of an outdoor swimming pool. The proposed parcel for purchase, zoned 'PR-1' Parks and Recreation will have to be subdivided out of the existing Scurfield Park area, rezoned to 'R1-5' Single Family Residential and consolidated with the existing residential lot, (35 Prospect Road).

Analysis

Scurfield Park, located in the Whyte Ridge Neigbourhood is made up of two separate parcels of land. The 12.2 acre parcel, of which this piece is a part, contains a retention pond and pathways. The 16.4 acre parcel, adjacent to the south west, contains baseball diamonds, pathways, a soccer pitch and a play structure. The 1524.6 square foot piece is to be subdivided out of the 12.2 acre parcel.

Whyte Ridge School is situated on the northeast corner of Scurfield Park. The park is part of a Joint Use Agreement with the Pembina Trails School Division. Pembina Trails School Division reviewed the potential sale and consolidation and has no concerns with the proposal.

The applicant's property, 35 Prospect Road has a triangular shaped rear yard which somewhat constrains opportunities for development. The owner feels that the addition of the 1524.6 square foot parcel will alleviate the size constraint, allowing the construction of an outdoor pool and other backyard amenities.

The Planning and Land Use Division has no concerns with the proposed subdivision and rezoning. The removal and consolidation of this strip of park land will have no detrimental effect on the existing park, the public walkway or the neighbouring properties.

In terms of process, the 'PR-1' Parks and Recreation zoned land must be declared surplus by Council prior to the negotiation and approval of the sale of the land being approved. The City of Winnipeg Real Estate Division requested that the Planning and Land Use Division add 2 conditions to that effect in the Recommendation section of the Planner's report.

Recommendation

The Planning and Land Use Division recommends approval of the proposed rezoning and subdivision for the following reasons:

- The Pembina Trails School Division, part of a Joint Agreement that includes Scurfield Park has no objections to the sale and subdivision of the 1524 square foot parcel.
- The removal of the 1524.6 square foot parcel from the existing Scurfield Park will have no negative impact on the public pathway, the retention pond or the athletic fields.

Recommended Conditions of Approval

1. That the plan of subdivision proposed under File DASZ 13/2007 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule “A” for File DASZ 13/2007 dated May 28th, 2007, for registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule “A” for File DASZ 13/2007 dated May 28th, 2007 to an ‘R1-5’ Single Family Residential District.

3. 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 market value of the land.

4. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

5. That Council declare the City owned property shown in broken outline and identified as "Subject City Property" shown on Misc. Plan No. 13010 as surplus to the City's needs.

6. That the Director of Planning, Property and Development be authorized to negotiate and approve the sale of the "Subject City Property" as shown in broken outline on Misc. Plan No. 13010, to the applicant on terms and conditions satisfactory to the Director of Planning, Property and Development and the City Solicitor/Manager of Legal Services in order to protect the interests of the City and to achieve the intent of the Standing Policy Committee on Property and Development.

7. 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.

8. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

9. That the subdivision section of the by-law shall come into force and effect upon registration of the Plan of Subdivision in the Winnipeg Land Titles Office.

10. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office.

11. That the Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

12. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

13. 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 # DASZ 13/07

Schedule "A"

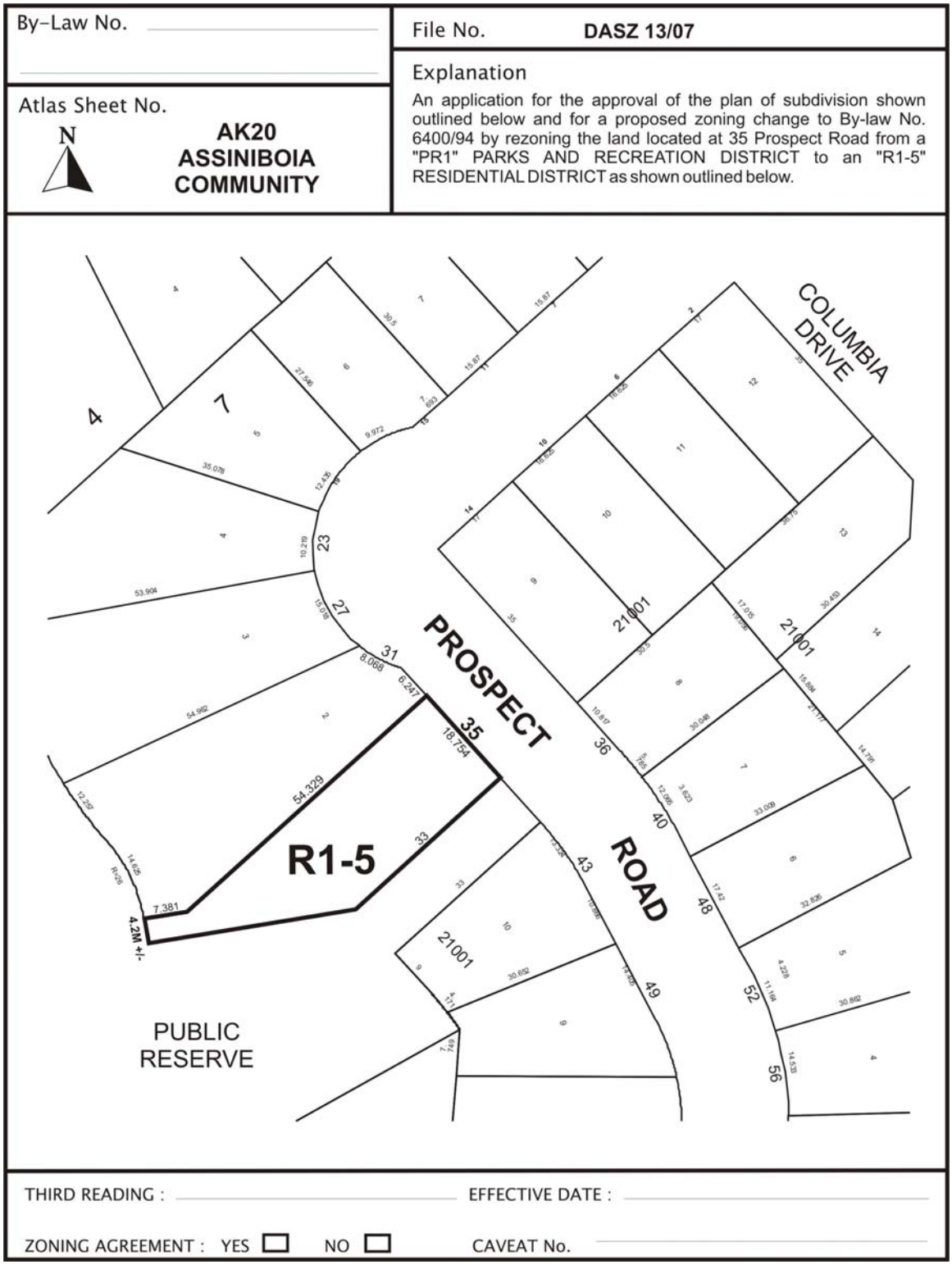


Figure 2: Schedule "A" to the report to the Assiniboia Community Committee for File DASZ 13/2007, dated May 28th, 2007.

Exhibit “10” referred to in File DASZ 13/2007

Schedule “B”

By-Law No. _____

File No. **DASZ 13/07**

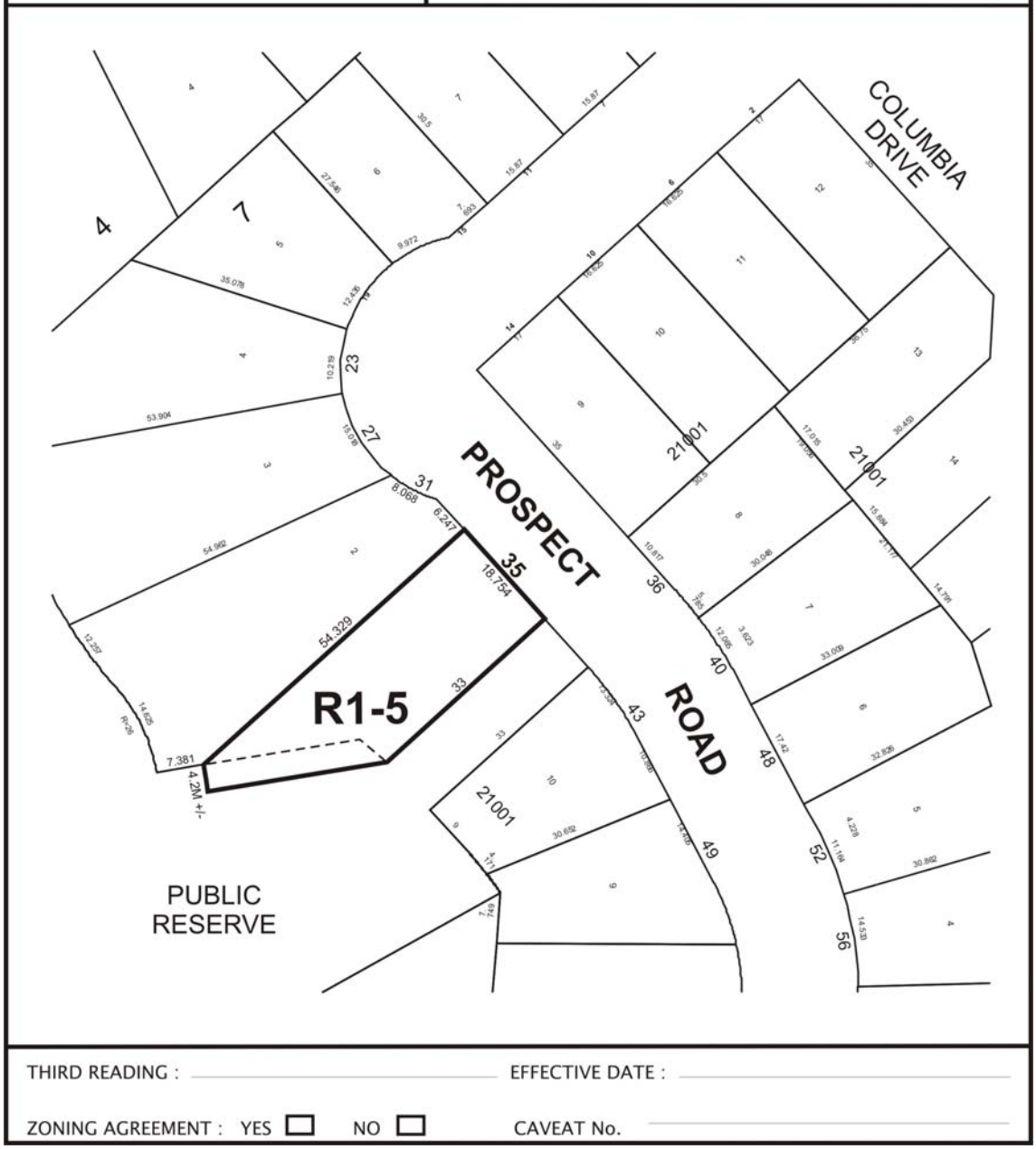
Explanation

An application for the approval of the plan of subdivision shown outlined below and for a proposed zoning change to By-law No. 6400/94 by rezoning the land located at 35 Prospect Road from a "PR1" PARKS AND RECREATION DISTRICT to an "R1-5" RESIDENTIAL DISTRICT as shown outlined below.

Atlas Sheet No.

N

AK20 ASSINIBOIA COMMUNITY



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

Figure 33: Schedule "B" to the report to the Assiniboia Community Committee for File DASZ 13/2007, dated May 28th, 2007.

Exhibit "12" referred to in File DASZ 13/2007

