Agenda - Council - September 24, 2008

Report - Standing Policy Committee on Property and Development - September 2, 2008

Item No. 2 Rezoning - 2416 Portage Avenue
(St. James-Brooklands Ward)
File DAZ 217/2008

STANDING COMMITTEE RECOMMENDATION:

On September 17, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submits the following to Council:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 217/2008 dated June 17, 2008 to a "C1" 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 the following uses shall not be permitted on the land:
            a. Post office / carrier depot
            b. Protection and emergency services
            c. Animal hospital or veterinary clinic
            d. Kennel
            e. Restaurant
            f. Contractor's establishment
            g. Pawnshop
            h. Cheque-cashing facility (payday loan / money mart facility)

        ii. That the pharmacy use be restricted to a maximum gross floor area of 600 square feet.

        iii. That the retail trade at the pharmacy be restricted to only pharmaceutical products and merchandise related to patient care.

        iv. That the external signage identifying the pharmacy be restricted to an unlit fascia sign on the north wall of the building measuring a maximum of 2 feet by 12 feet, subject to any zoning approvals.

        v. That the hours of operation for the commercial uses on the entire site be limited to the hours between 7:00 a.m. and 9:00 p.m. Monday through Saturday closed on Sundays.

Report - Standing Policy Committee on Property and Development - September 2, 2008

vi. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site.

vii. That a wood fence measuring six (6) feet in height be installed along the southern property line from the eastern limit, to the south-west corner of the pharmacy, then the fence shall be reduced to four (4) feet in height and continue to the western limit of the property.

viii. That signage be installed in the pharmacy identifying the availability of additional parking at St. Paul The Apostle Roman Catholic Church, 2400 Portage Avenue.

ix. That for the development of any building and/or accessory parking area, signage, landscaping, lighting and fencing, final plans, showing the showing the location and details of building elevations, landscaping, signage, fencing, garbage enclosures and exterior lighting, shall be submitted to the Assiniboia Community Committee and the Director of Planning Property and Development for approval prior to the issuing of any development or building permits; and shall thereafter 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 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 zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date by-law is passed.

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

Report - Standing Policy Committee on Property and Development - September 2, 2008

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 - September 2, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 17, 2008, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 2, 2008, 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 July 8, 2008, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendments, namely:

- Amend recommendation 1.A.i. by adding the following:

  g. Pawnshop
  h. Cheque-cashing facility (payday loan / money mart facility)

- Amend recommendation 1.A. by adding the following recommendations and renumbering the remaining recommendations accordingly:

  vii. That a wood fence measuring six (6) feet in height be installed along the southern property line from the eastern limit, to the south-west corner of the pharmacy, then the fence shall be reduced to four (4) feet in height and continue to the western limit of the property.

  viii. That signage be installed in the pharmacy identifying the availability of additional parking at St. Paul The Apostle Roman Catholic Church, 2400 Portage Avenue,

and forwarded to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 2416 Portage Avenue**
File DAZ 217/2008 [c/r DAV 118215/2008D]

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

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

Report date: **July 11, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 8, 2008, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, as amended, and recommends to the Standing Policy Committee on Property and Development:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 217/2008 dated June 17, 2008 to a "C1" 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 the following uses shall not be permitted on the land:
            a. Post office / carrier depot
            b. Protection and emergency services
            c. Animal hospital or veterinary clinic
            d. Kennel
            e. Restaurant
            f. Contractor's establishment
            g. Pawnshop
            h. Cheque-cashing facility (payday loan / money mart facility)

        ii. That the pharmacy use be restricted to a maximum gross floor area of 600 square feet.

        iii. That the retail trade at the pharmacy be restricted to only pharmaceutical products and merchandise related to patient care.

        iv. That the external signage identifying the pharmacy be restricted to an unlit fascia sign on the north wall of the building measuring a maximum of 2 feet by 12 feet, subject to any zoning approvals.

        v. That the hours of operation for the commercial uses on the entire site be limited to the hours between 7:00 a.m. and 9:00 p.m. Monday through Saturday closed on Sundays.

vi. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site.

vii. That a wood fence measuring six (6) feet in height be installed along the southern property line from the eastern limit, to the south-west corner of the pharmacy, then the fence shall be reduced to four (4) feet in height and continue to the western limit of the property.

viii. That signage be installed in the pharmacy identifying the availability of additional parking at St. Paul The Apostle Roman Catholic Church, 2400 Portage Avenue.

ix. That for the development of any building and/or accessory parking area, signage, landscaping, lighting and fencing, final plans, showing the showing the location and details of building elevations, landscaping, signage, fencing, garbage enclosures and exterior lighting, shall be submitted to the Assiniboia Community Committee and the Director of Planning Property and Development for approval prior to the issuing of any development or building permits; and shall thereafter 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 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 zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date by-law is passed.

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.

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 Assiniboia Community Committee agreed with the administrative comments contained in the report of the Planning and Land Use Division dated June 17, 2008.

PUBLIC HEARING SUMMARY

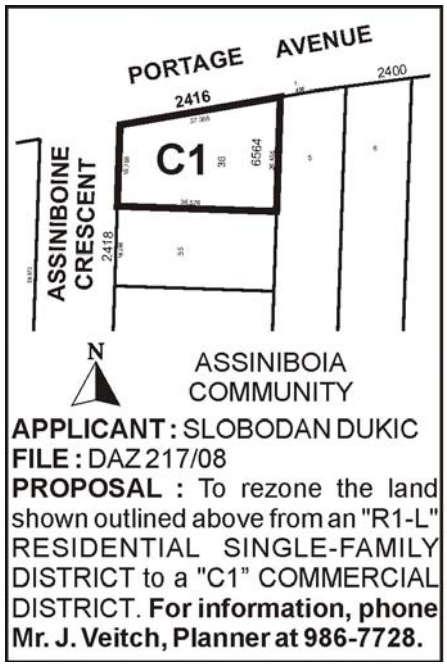
File: DAZ 217/2008 [c/r DAV 118215/2008D]

Before: Assiniboia Community Committee
Councillor Fielding, Chairperson
Councillor Clement
Councillor Nordman

Public Hearing: July 8, 2008
West Committee Room
Council Building, 510 Main Street

Applicant: Slobodan Dukic

Subject:



Premises Affected: 2416 Portage Avenue

Exhibits Filed:

1. Application dated May 8, 2008
2. Notification of Public Hearing dated May 26, 2008
3. Manitoba Status of Title 1885381
4. Letter of authorization dated April 10, 2008 from CRA Medical Management Ltd. to Slobodan Dukic
5. Surveyor's Building Location sketch dated April 24, 2002
6. Petition in support of the application purporting to contain the signatures of 37 area residents

7 Plan (1 page)
8. Report from the Planning and Land Use Division dated June 17, 2008
9. Inspection Report
10. Audio Recording of representations of public hearing held on July 8, 2008

REPRESENTATIONS:

In Support:

Slobodan Dukic
Gordana Dukic
Ebraam Morcos
Christiana Winogrodzki
Richard Winogrodzki

In Opposition

Parnelle Koczka

For the City:

Mr. M. Pasieczka, Planner, Planning, Property and Development Department

Exhibit "8" referred to in File DAZ 217/2008

Winnipeg

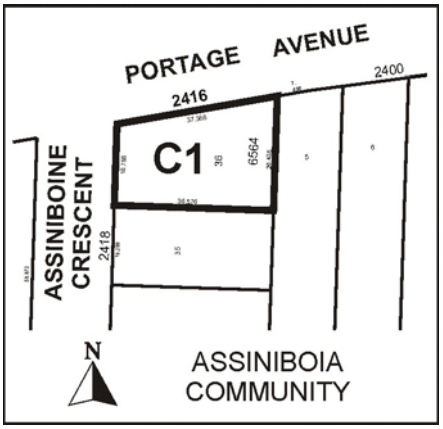
Planning, Property and Development Department Report

To the Assiniboia Community Committee

Date: June 17, 2008
File: **DAZ 217/2008**
Related Files: DAV 08-118215D

Subject: To rezone the land from 'R1-L' Single Family Residential District to a 'C1' Commercial District

Location: 2416 Portage Avenue
Legal Description: Lot 36, Block 3, Plan 6564



Applicant: Slobodan Dukic
Owner: CRA Medical Management Limited

Recommendation: *Approved with Conditions*

Site Description

Existing Land Use and Zoning

The approximately 8,900 square foot subject site is currently zoned 'R1-L' Single Family Residential and occupied by a 600 square foot pharmacy and a 2,100 square foot medical clinic within a converted residential dwelling. A residential apartment exists on the second floor. The site is with an area designated Neighbourhood in *Plan Winnipeg 2020* and located in the Birchwood Neighbourhood of the Assiniboia Community.

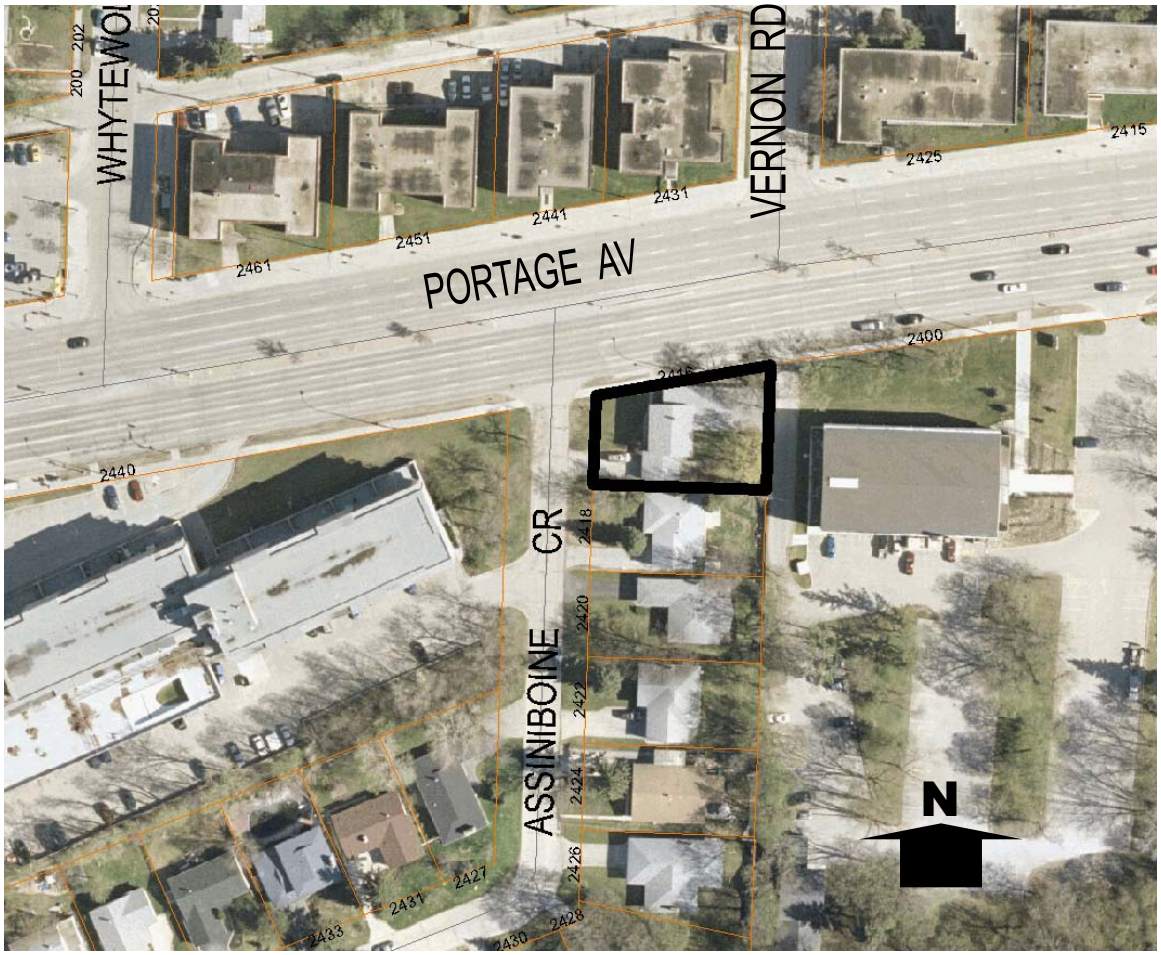


Figure 1: Subject Site (Aerial Flown 2005)

Surrounding Land Use and Zoning

North: Portage Avenue then 'RMF-M' Multiple Family Residential
South: 'R1-L' Single Family Residential
East: Assiniboia Crescent then 'RMF-M' Multiple Family Residential
West: 'R1-L' Single Family Residential (church)

Background

- DAV 689-79
  1. to permit the expansion of a non-conforming the medical clinic

  Approved

- DAV 330821/2003C
  1. for a period of time as determined by the Board of Adjustment to permit the establishment of a pharmacy use in conjunction with a non-conforming medical clinic
  2. to permit no additional parking instead of 4 additional spaces

  Approved with conditions

Description of the Proposed Development

The applicant wishes to rezone the subject site from 'R1-L' Single Family Residential to 'C1' Commercial to allow the existing pharmacy to remain. The medical clinic exists as a non-conforming use; the rezoning will make it conform to the Zoning By-law as well. Currently there is a residential unit on the second floor. At this point, there is no intent for any new construction to take place on the site.

Analysis

The rezoning of the subject site is being triggered by the expiration of a 'use variance' for the pharmacy approved in 2003. The medical clinic is a non-conforming use and is allowed to continue operating at this location.

Planning and Land Use Division supports this rezoning application. The division recommended the rejection of the original 'use variance' for the pharmacy use; our concern was that this use would have a negative impact on the immediate context. However, the Board of Adjustment approved the application for a 5-year period. Below is the wording from the associated Variance Order dated October 31, 2003:

1. *a pharmacy use in conjunction with an existing non-conforming medical clinic, **terminating January 1, 2009** or sooner should the building be destroyed or demolished;*
2. *no additional on site parking instead of 4 additional parking spaces.*

The Order included 4 conditions;

1. *That if any Variance granted by the Order is not established within two (2) years of the date thereof, the Order, in respect of that Variance, shall terminate.*
2. *That the pharmacy be restricted to a maximum floor area of 600 square feet (55.7 sq.m.).*
3. *That the retail trade at the pharmacy be restricted to pharmaceutical products and merchandise related to patient care.*
4. *That external signage identifying the pharmacy be restricted to an unlit facia sign on the north wall of the clinic measuring a maximum of 2 feet by 12 feet (0.6 m. by 3.7 m.)., subject to any necessary zoning approvals.*

Since that time it appears that the pharmacy has operated without any negative impacts on the neighbourhood and thus we are comfortable supporting its permanent establishment. The only blemish to that record was the previous owner's installation of additional signage on the site that was beyond the limits set by condition #4. The previous owner applied for a subsequent variance to allow the illegal signage to remain, however that variance was rejected and the extra signage was removed.

In terms of the medical clinic, it has operated at this location for at least 30 years, providing a convenient service to the surrounding community without being a detriment to the neighbourhood. There was some concern regarding the owner's site maintenance including pruning debris, yard care and drainage by a local resident, the complainant was directed to the Zoning Field Officer for the area.

The combined parking requirement for the pharmacy, the medical clinic and the residence upstairs is 4 parking stalls. The subject site has an existing driveway that allows for limited drop-off and pick-up, keeping that traffic off of Assiniboine Crescent. The applicant has indicated that they have a shared parking agreement with the church next door to the east, (2400 Portage Avenue) providing a convenient place to park staff and visiting patients. It should be noted that the owners maintain that much of the clientele is walk-up from the local neighbourhood further reducing the parking / drop-off / pick-up needs.

The Planning and Land Use Division will be recommending a Zoning Agreement be included with this rezoning, reattaching the previous conditions placed on the property as well as further limiting the types of uses allowed to establish. This will allow the business to continue operations as it has for the past years providing a convenient amenity for the local community.

Recommendation

The Planning and Land Use Division recommend approval for the following reasons:

- The existing uses have had no detrimental impact on the surrounding context,
- The conditions recommended in the proposed Zoning Agreement will ensure the operation of the site continues at the same scale and intensity,
- The uses provide an important amenity and convenience for the local neighbourhood.

Recommended Conditions of Approval

1. That The Winnipeg Zoning By-law No. 200/06 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 217/2008 dated June 17, 2008 to a 'C1' 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 the following uses shall not be permitted on the land:

         a. Post office / carrier depot
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      v. That the hours of operation for the commercial uses on the entire site be limited to the hours between 7:00 a.m. and 9:00 p.m. Monday through Saturday closed on Sundays.

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

Report Prepared by: James Veitch
PPD File # DAZ 217/08

Schedule "A"

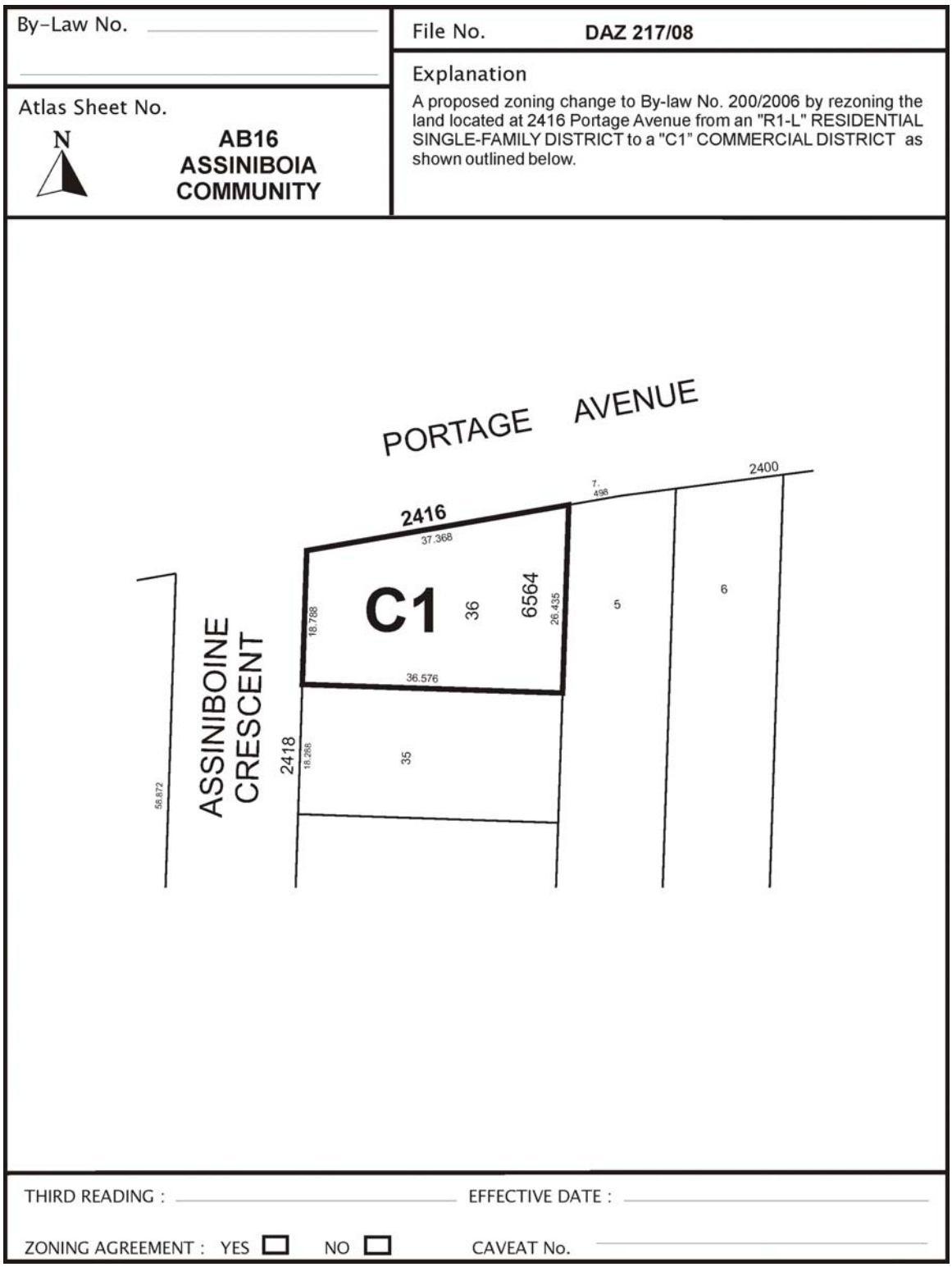


Figure 2: Schedule "A" to the report to the Assiniboia Community Committee for File DAZ 217/2008, dated June 17, 2008.