Minute No. 781
Report – Standing Policy Committee on Property and Development – September 16, 2014

Item No. 4 **Rezoning – 195 Old Mill Road**
(St. James – Brooklands Ward)
File DAZ 214/2014 [c/r DAV 117462/2014D]

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the application for rezoning under File DAZ 214/2014 [c/r DAV 117462/2014D] be rejected.

Report – Standing Policy Committee on Property and Development – September 16, 2014

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 17, 2014, 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 16, 2014, 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 9, 2014, the Assiniboia Community Committee did not concur in the recommendation of the Winnipeg Public Service and the application for rezoning under File DAZ 214/2014 [c/r DAV 117462/2014D] be rejected, and forwarded to the Standing Policy Committee on Property and Development.

RE: **Rezoning – 195 Old Mill Road**
(St. James – Brooklands Ward)
File DAZ 214/2014 [c/r DAV 117462/2014D]

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

Prepared by: **Destiny Watt, Senior Committee Clerk**
Assiniboia Community Committee

Report date: **July 9, 2014**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 8, 2014, the Assiniboia Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development that the application for rezoning under File DAZ 214/2014 [c/r DAV 117462/2014D] be rejected.

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

1. This sounds like a well-run business but as businesses expand they need to be on the major routes which do not impact the residential areas.

PUBLIC HEARING SUMMARY

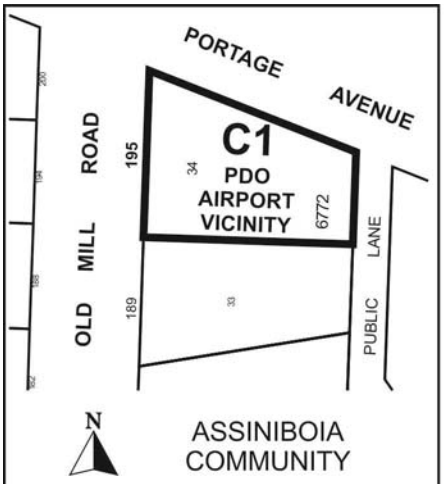
File: DAZ 214/2014

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

Public Hearing: July 9, 2014
Council Building, 510 Main Street

Applicant: Antonina Godlevska

Subject:



APPLICANT : ANTONINA GODLEVSKA

FILE : DAZ 214/14

PROPOSAL : To rezone the land shown outlined above from an "R1-L PDO AIRPORT VICINITY" RESIDENTIAL SINGLE-FAMILY (Large) DISTRICT to a "C1 PDO AIRPORT VICINITY" COMMERCIAL NEIGHBOURHOOD DISTRICT to facilitate the expansion of an existing personal service use (hair salon use previously established as a home-based business). **For information, phone Mr. D. Clark, Planner, at 204-986-5684.**

Premises Affected: 195 Old Mill Road

Exhibits Filed:

1. Application dated April 24, 2014
2. Notification of Public Hearing dated May 7, 2014
3. Manitoba Status of Title 2430990/1
4. Letter of authorization dated March 31, 2014 from Volodymyr Nechypurenko to Antonina Godlevska
5. Surveyor's Building Location Certificate and sketch dated March 18, 1983
6. Zoning Memorandum dated July 10, 2000
7. Plans (2 pages)
8. Report from the Urban Planning Division dated June 26, 2014
9. Communication dated June 22, 2014, from Marsha Katz in opposition to the application
10. Communication dated June 29, 2014, from Timothy and Kerry Buzunis in opposition to the application
11. Communication dated July 2, 2014, from Ralph Hikoski in opposition to the application
12. Inspection Report
13. Communication dated July 8, 2014, from Janet Gowan in opposition to the application, submitted at the public hearing
14. Petition in opposition to the application, purporting to contain the signatures of 64 area residents, submitted by Janet Gowan at the public hearing
15. Petition in support of the application, purporting to contain the signatures of 38 area residents, submitted by the applicant at the public hearing
16. Audio Recording of representations

REPRESENTATIONS:

In Support:

Antonina Godlevska
Luds Kozlova
Igor Polevychok

In Opposition

Mea Adam
Tracey Adam

Timothy and Kerry Buzunis
Peter Connelly
Janet Gowan
Ralph Hikoski
Ron Hikoski
Marsha Katz
Clay Kornelson
Flora Mitchell
Richard Nickel
Randy Palmer
Irene G. Steen
Catherine Winkworth

For Information:

Cathy Hummelt
Bob Hummelt
Maxim Kryukov

For the City:

Mr. J. Veitch, Principal Planner, Planning,
Property and Development Department
Mr. D. Clark, Planner, Urban Planning Division, Planning,
Property and Development Department
Ms. E. Finnigan, Planner, Urban Planning Division, Planning,
Property and Development Department
Mr. G. Jasper, Land Development Engineer, Planning, Property
and Development

Exhibit "8" referred to in File DAZ 214/2014

ADMINISTRATIVE REPORT

Title: DAZ 214/14 – 195 Old Mill Rd

Issue: An application for consideration at the Public Hearing for a rezoning from R1-L to C1 to allow for the expansion of an existing personal service hair salon use.

Critical Path: Assiniboia Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Smith	n/a	n/a	

RECOMMENDATIONS

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 214/2014 dated June 26th, 2014, to a "C1" Commercial Neighbourhood 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 only the following uses shall be permitted on the land:
            - Personal services (hair/beauty salon)
        ii. That commercial uses shall be limited to a maximum gross floor area of 1200 sq. ft.
        iii. That, the hours of operation on the premises be limited to between 9:00 a.m. and 9:00 p.m. Monday to Friday and 9:00 a.m. to 6:00 p.m. Saturday inclusive.
        iv. That, the personal service use (hair/beauty salon) operate by appointment only, with a maximum of three (3) customers on the premises at a time.
        v. That, there shall be a maximum of three (3) non-resident employees on the premises.
        vi. That, free-standing identification signs, illuminated signs, advertising signs, mobile signs, and inflatable signs shall not be permitted on the entire site.
        vii. That, for the development of any building or structure, plans shall be submitted showing the location and design of proposed buildings, the location and design of accessory parking areas, fencing, landscaping and signage to the Director of Planning, Property and Development and the Assiniboia Community Committee 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 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 Director of Legal Services and City Solicitor 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 the by-law is passed.

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

7. That the Director of Legal Services and City Solicitor be requested to do all things necessary for implementation in accordance with the terms of the City of Winnipeg Charter.

REASON FOR THE REPORT

- The applicant intends to rezone the subject property to allow for the expansion of an existing hair salon.
- This will require a rezoning from a “R1-L” Residential Single Family district to a “C1” Commercial Neighbourhood district.
- No exterior alterations are planned for the existing dwelling.
- Rezoning applications require a Public Hearing as per the *Development Procedures By-law* and *The City of Winnipeg Charter.*
- The Report is being submitted for the Committee’s consideration of the development application at the Public Hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning Division are concurred in, the subject property will be rezoned.

HISTORY

- **1976** – A building permit was issued for the construction of a one storey addition and to convert the attached garage into a living space.

- **1977** – A Variance (DAV 481/77) to permit the maintenance of a home occupation (chartered accountant's office) having a total floor area of 588 sq. ft. was rejected.
- **September 1982** – An application to rezone the subject property to "C1" was submitted. It was recommended for approval by the Department of Environment Planning. Approval was not granted by the St. James-Assiniboia Community Committee for the following reason:

  The proposed use would possibly conflict with the adjacent residential properties.
- **February 1989** – A Conditional Use (DCU 30/89) to permit the establishment of a day care centre in an existing single family dwelling was rejected.
- **March 2005** – A Conditional Use application to permit a home occupation as well as a variance application to permit the erection of two facia signs were submitted. The applicant was deemed to be operating beyond the bounds of a home occupation and both applications were rejected. The ruling was appealed by the applicant. The appeal was dismissed and the order confirmed.
- **March 2010** – A Conditional Use (DCU 10-110858/B) to establish a Home Based Business, Major was granted subject to the following conditions:

  1. *That the hours of operation on the premises be limited to between 9:00 a.m. and 9:00 p.m. Monday to Friday and 9:00 a.m. to 6:00 p.m. Saturday inclusive.*
  2. *That the home-based business granted by this order shall operate by appointment only, with a maximum of one (1) customer on the premises at a time.*
  3. *That there shall be no employees on the premises.*
  4. *That the Conditional Use granted by this Order to permit a hair stylist providing a personal service on the premises shall terminate on April 15, 2012.*

  The ruling was appealed by three adjacent homeowners on the street. The appeal was dismissed and the order confirmed.

- **January 2012** – A Conditional Use (DCU 12-104025/B) for a home based business was renewed with the same conditions as the previous application with an amended expiry period of five years.

CONSULTATION

In preparing this report there was consultation with:
N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning Division
Prepared by	Elise Finnigan
Date:	June 26th, 2014
File No.	DAZ 214/14

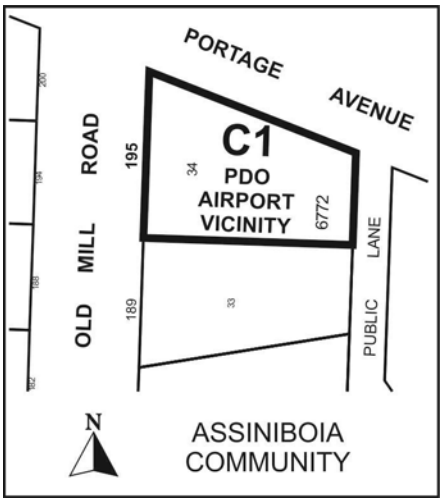
APPENDIX 'A'

DATE: June 26th, 2014
FILE: DAZ 202/13

RELATED FILES: DAV 14-117462/D
COMMUNITY: Assiniboia
NEIGHBOURHOOD #: 2.207

SUBJECT: To rezone the subject property from "R1-L" Residential Single Family district to "C1" Commercial Neighbourhood district to allow for the expansion of an existing personal service hair salon use.

LOCATION: 195 Old Mill Rd.



APPLICANT: Antonina Godlevska
195 Old Mill Road
Winnipeg MB R3J 3H1

OWNER: Same as above

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant intends to rezone the subject property to allow for the expansion of an existing hair salon.
- This will require a rezoning from an "R1-L" Residential Single Family district to a "C1" Commercial Neighbourhood district.
- No exterior alterations are planned for the existing dwelling.

SITE DESCRIPTION

- The subject property is located on the southeast corner of Old Mill Rd and Portage Ave in the Birchwood neighbourhood of the St. James-Brooklands ward.
- The subject property is 7,900 sq. ft. in area. It is currently occupied by a split level, 2,742 sq. ft. single family dwelling built in 1959.
- The subject property is within the Areas of Stability – Mature Communities Policy Area and along a Regional Corridor under the *Complete Communities Direction Strategy*.
- The property is zoned "R1-L" Residential Single-Family and is located in the Airport Vicinity Protection Area.



Figure 1: Site map of subject property and surrounding neighbourhood

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant intends to rezone the subject property from "R1-L" Residential Single Family district to "C1" Commercial Neighbourhood district to allow for the expansion of an existing personal service hair salon use. The business has been in operation since May 2010.
- The applicant is proposing to expand the square footage of the business beyond that which is allowed for a Home-Based Business, Major. At present, the business occupies 683 sq. ft. of the dwelling and the residence occupies 2,119 sq. ft. The applicant is proposing to expand the commercial area to 1132 sq. ft. and reduce the residence to 1670 sq. ft.
- The applicant is proposing to hire two employees with the option of hiring a third in the future. At present, the conditional use does not allow any employees on the premises.
- The applicant intends to retain the same business hours (i.e., Monday to Friday 9:00 a.m. to 9:00 p.m. and Saturday from 9:00 a.m. to 6:00 p.m.).

- The applicant is proposing to establish two additional parking spaces at the rear of the property resulting in a total of six on-site parking spaces.
- The applicant is proposing to install buffering along the south side yard in compliance with Zoning By-law 200/2006.
- The applicant is not intending to make any exterior alterations to the existing building.
- There is an associated variance application (DAV 14-117462/D). The variances are for a reduced side yard and parking directly off of a street or lane.

BACKGROUND

DAV 14-117462/D

- In concurrence with this application, the applicant has also applied to vary the "C1 PDO Airport Vicinity" dimensional standards of the zoning by-law for the expansion of a personal service use that was previously established as a home-based business under DCU 12-104025/B as follows:
    - for the maintenance of the existing building to permit a south side yard of 7.3 ft. (2.2 metres) instead of 10 ft. (3.0 metres);
    - for the maintenance and establishment of an accessory parking area to permit parking directly off a lane instead of an aisle or driveway.

ANALYSIS AND ISSUES

OURWINNIPEG AND COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the subject property is along a Regional Mixed-Use Corridor. Key policies guiding development along Centres and Corridors include:
    - Provide a mix of employment, higher-density residential opportunities, retail and service uses that support the needs of and respect the context of adjacent communities.

ZONING

- The "R1" Residential Single Family district is intended to accommodate primarily single-family residential development in lower-density neighbourhoods.
- The Commercial Neighbourhood (C1) district is intended to accommodate small, compact commercial uses within or surrounded by residential areas that are attractive and compatible in scale and character with surrounding residential uses, to serve the convenience needs of the surrounding neighbourhood. This district is not intended to accommodate businesses sized or designed to serve a trade area more than one-half mile from the business. C1 districts are generally located along local streets or at local/collector intersections.



Figure 2: Zoning map of subject property and surrounding neighbourhood

- Section 143 of the zoning by-law prescribes the following dimensional standards for the "C1" district:

	Min/Max Front Yard (ft.)	Min. Rear Yard (ft.)	Min. Interior Side Yard (ft.)**	Min. Corner Side Yard (ft.)	Max. Height of Building (ft.)	Max. Floor Area Ratio
C1	0 / 10*	0	0	0	39	1.0

* - Maximum front yard in the C1 district applies only in Urban Infill Areas.
** - Where a side or rear lot line in a commercial or institutional zoning district abuts a side or rear lot line of an R1 or R2 zoning district, a yard of 10 feet must be provided along the side or rear lot line in the commercial or institutional zoning district. The 10 foot side yard must be landscaped pursuant to sections 188 through 193 of the zoning by-law and must not be used for parking or loading areas, storage of refuse or materials, or commercial activities of any kind.

Figure 3: Dimensional standards for the "C1" district

- Section 161 of the zoning by-law prescribes parking requirements for each land use. A "personal services" use requires 1 parking space for each 250 sq. ft. of floor area over 2,000 sq. ft. (1 space minimum). The subject property meets the parking requirements of the zoning by-law.
- Section 172(3)(a) of the zoning by-law requires that an accessory off-street parking area must be provided with a parking driveway with a minimum width of 8 feet, having access to a street or, where permitted, to a public lane.
- Table 5-9 in Zoning By-law 200/2006 outlines the General Accessory Parking Requirements for different uses. It specifies that a Personal Service use requires 1 parking space for each 250 sq.

ft of floor area over 2,000 sq. ft. or a minimum of one space. The applicant is proposing a commercial area of 1132 sq. ft. resulting in a parking requirement of one space.

LAND USE BY-LAW ISSUES

Rezoning

- The applicant is proposing to rezone the land from R1-L to C1 for the expansion of a personal service use that was previously established as a home-based business. Home-based businesses are only allowed to occupy 25% of the total gross floor area of the dwelling unit and a maximum of only two non-resident employees are permitted. The applicant is proposing to expand the amount of space the business occupies to 1132 sq. ft. and to hire three non-resident employees.

- This administrative report only speaks to issues relating to the rezoning and subdivision of the subject property. Further discussion relating to the variances will be addressed in the concurrent variance report.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The subject property is on a corner lot with frontages onto Portage Ave. and Old Mill Rd. The commercial use has an orientation onto Portage Ave. which is consistent with the commercial corridor abutting and opposite. Further to this, the "C1" Commercial Neighbourhood district is the commercial zoning district most compatible with residential uses from both a use and scale perspective. With these considerations in mind, the Urban Planning Division believes the proposed development is compatible with the surrounding neighbourhood.
- The Winnipeg Public Service takes a very restrained approach to commercial conversions of residential properties. In general, they should occur on corners and on major arterial streets. Furthermore, they should be encouraged to keep the residential structure, whenever possible, to maintain a residential character. In this instance, the subject property meets all of these criteria.
- Since the original construction of the house in 1959 a lot of changes have occurred along Portage Ave. placing significant pressure on the viability of a single family use at this location. The gradual evolution of the subject property into more of a commercial use through the Home Business process corresponds with the intensification of Portage Ave as a main commercial corridor for the city.
- The Urban Planning Division has recommended a number of restrictions be added to the zoning agreement in order to ensure the existing commercial use is consistent with the specific site and to ensure the compatibility of any potential future developments.
- The Urban Planning Division has recommended a plan approval clause be added as a condition of approval. This will ensure that any development on the subject property, both associated with this project and any others in the future will remain compatible with the surrounding neighbourhood.

PUBLIC INPUT

- The applicant has informed us that she went door-to-door on Old Mill Rd. and Woodbridge Rd. to inform her neighbours of the proposal. Thirty-seven neighbours signed in support of the rezoning application.

- The Urban Planning Division has received calls from several residents of the immediate neighbourhood. Their concerns centre around the appropriateness of the commercial rezoning at this location and the potential negative impacts this use may have on the neighbourhood. The main concerns that were relayed to us were those of increased traffic and parking on the street.

- The applicant has indicated a maximum of three customers and three staff will be in the hair salon at the same time. The customers and staff should be able to park in one of the six parking stalls provided on site. Alternatively, there are approximately nine on street parking spaces available on Portage Ave. in front of the entrance to the salon. There are no parking restrictions associated with these stalls with the exception of no stopping between 7:00 a.m. and 9:00 a.m. There is also a bus stop in close proximity to the subject property.

LAND DEDICATION

- When a developer rezones and/or subdivides a parcel of land, they are required to put in an application with the City of Winnipeg.
- As a condition of rezoning or subdivision, a developer is required to contribute a portion of the land to be developed to the City for parks purposes.
- The amount of land is not less than 10%.
- The developer is to provide land or 'cash in lieu' as determined by the Planning, Property and Development Department.
- The City is requesting cash in lieu for this application.

PLAN APPROVAL CONDITION

Plan approval is being recommended as a condition for this application to ensure that final details of the submitted plans are consistent with the recommendations of approval. The following considerations should be made when submitting final plans to the Urban Planning Division:

- Site layout should show the location of buildings, landscaping (species and quantities), accessory parking, bicycle parking, and fencing (renderings showing elevations should also be included).
- Fencing plans should be provided showing the design, details and location of fencing on the site.

RECOMMENDATION

The Urban Planning Division recommends **approval** for the following reasons:

- The proposed rezoning of the site to C1 is consistent with the Complete Communities Direction Strategy.
- The subject property is located abutting and opposite to C2-zoned properties.

- Restrictions and standards of the C1 zone are intended to help ensure that development in the C1 zone is compatible with neighbouring residential uses.
- The recommended added restrictions of the zoning agreement help to ensure the existing commercial use is consistent with the specific site and to ensure the compatibility of any potential future developments.

This Report Submitted by: Elise Finnigan
Planning, Property and Development Department
Urban Planning Division
Report Prepared by: PPD File # DAZ 214/14

APPENDIX 'B'

Schedule "A" for File No. DAZ 214/14, Assiniboia Community Committee, dated June 26th, 2014.

By–Law No. _____

File No. **DAZ 214/14**

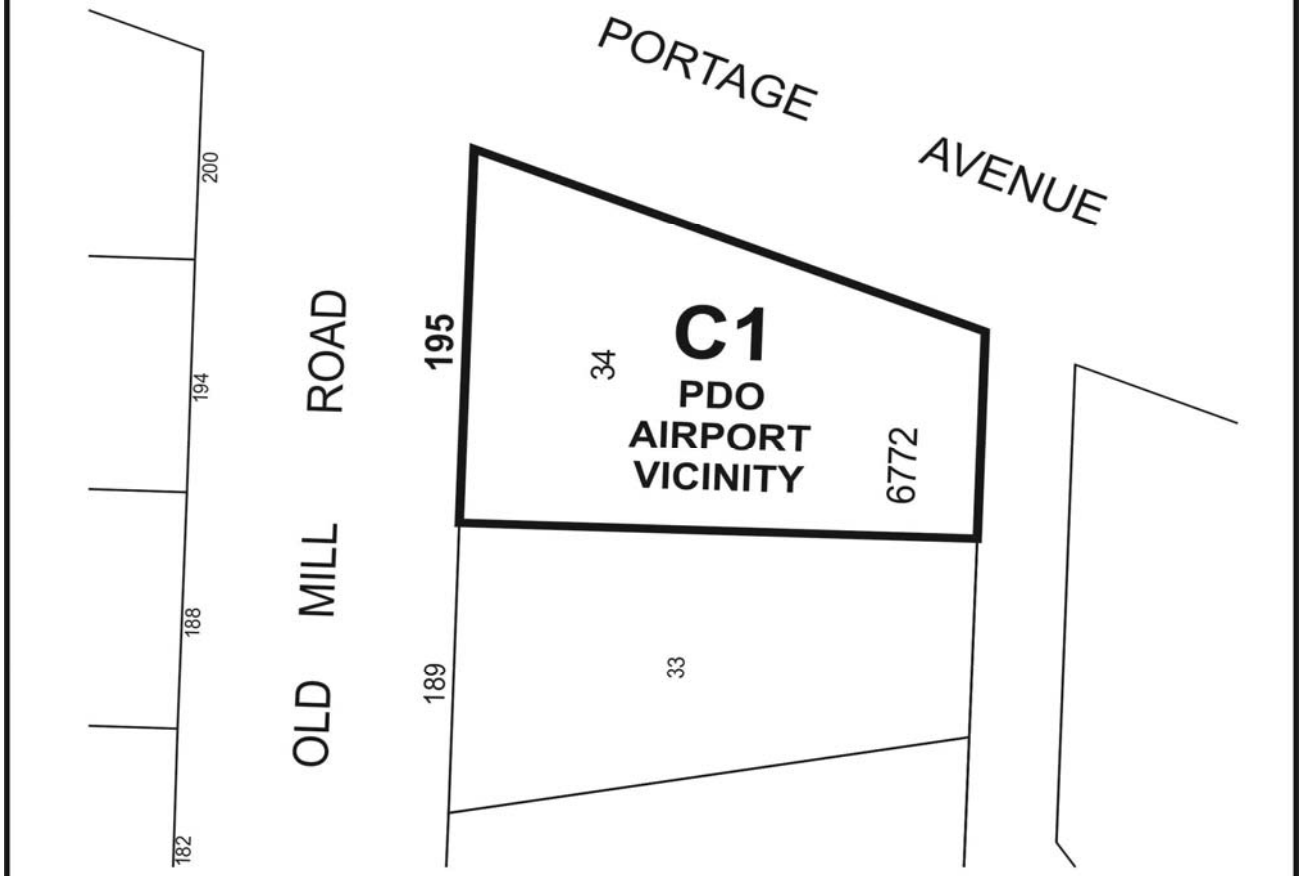
Atlas Sheet No.

N

AB15 ASSINIBOIA COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 195 Old Mill Road from an "R1-L PDO AIRPORT VICINITY" RESIDENTIAL SINGLE-FAMILY (Large) DISTRICT to a "C1 PDO AIRPORT VICINITY" COMMERCIAL NEIGHBOURHOOD DISTRICT to facilitate the expansion of an existing personal service use (hair salon use previously established as a home-based business) as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____