Agenda - Council - July 27, 2005

Report - Standing Policy Committee on Property and Development - July 5, 2005

Item No. 13 Subdivision and Rezoning - 2335 and 2345 St. Mary's Road File DASZ 47/2004

STANDING COMMITTEE RECOMMENDATION:

On July 20, 2005, the Executive Policy Committee concurred in the recommendations from the Standing Policy Committee on Property and Development and the Riel Community Committee and submits the following to Council:

1. That the plan of subdivision proposed under File DASZ 47/2004 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 47/2004 dated February 15, 2005, for registration in the Winnipeg Land Titles Office.

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

3. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A" for File DASZ 47/2004 dated February 15, 2005, to an "RM-3" Multiple Family District subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

    A. That final plans indicating location of buildings, building profiles, approaches, fencing and landscaping details, exterior lighting, signage, garbage enclosures, and parking areas be submitted to and approved by the Planning and Land Use Division and the Riel Community Committee prior to the issuance of any permits.

    B. That the number of dwelling units be limited to a maximum of twenty-four (24) in total and building heights be limited to a maximum of three (3) stories.

4. 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 and the creation of additional sites (if applicable).

Report - Standing Policy Committee on Property and Development - July 5, 2005

5. 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.

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

7. 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 and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands 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.

8. 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.

9. 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.

Report - Standing Policy Committee on Property and Development - July 5, 2005

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 20, 2005, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Riel Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 5, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation from the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 21, 2005, the Riel Community Committee concurred in the administrative recommendation with the following amendments, namely:

- That Recommendation 3.B. be amended by deleting the words “thirty-six (36)” and replacing them with “twenty-four (24)”

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

On May 17, 2005, the Riel Community Committee further adjourned the public hearing to its meeting on June 21, 2005.

On April 4, 2005, the Riel Community Committee did not hear any representation on the application and further adjourned the public hearing to its meeting on May 17, 2005.

On March 15, 2005, the Riel Community Committee further adjourned the public hearing to its meeting on April 4, 2005.

On February 22, 2005, the Riel Community Committee adjourned the public hearing to its meeting on March 15, 2005.

RE: **Subdivision and Rezoning - 2335 and 2345 St. Mary's Road**
File DASZ 47/2004 [c/r DAV 119839/2005D]

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

Prepared by: **Marc A. Pittet, Clerk,**
Riel Community Committee

Report date: **June 27, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On June 21, 2005, the Riel Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 47/2004 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 47/2004 dated February 15, 2005, for registration in the Winnipeg Land Titles Office.

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

3. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A" for File DASZ 47/2004 dated February15, 2005, to an "RM-3" Multiple Family District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

    A. That final plans indicating location of buildings, building profiles, approaches, fencing and landscaping details, exterior lighting, signage, garbage enclosures, and parking areas be submitted to and approved by the Planning and Land Use Division and the Riel Community Committee prior to the issuance of any permits.

    B. That the number of dwelling units be limited to a maximum of ***twenty-four (24)*** in total and building heights be limited to a maximum of three (3) stories.

4. 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 and the creation of additional sites (if applicable).

5. 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.

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

7. 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 and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands 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.

8. 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.

9. That in the event that 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.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

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

1. The Riel Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated February 15, 2005.

PUBLIC HEARING SUMMARY

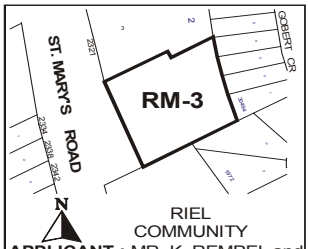
File: DASZ 47/2004 [c/r DAV 119839/2005D]

Before: Riel Community Committee
Councillor Steeves, Chairperson
Councillor Magnifico

Public Hearing: June 21, 2005
Community Committee Chamber, 604 St. Mary's Road
May 17, 2005
Community Committee Chamber, 219 Provencher Boulevard
April 4, 2005
St. Norbert Community Centre, 3450 Pembina Highway
March 15, 2005
Community Committee Chamber, 604 St. Mary's Road
February 22, 2005
Community Committee Chamber, 219 Provencher Boulevard

Applicant: Kelly Rempel and Ed Krahn

Subject:



APPLICANT : MR. K. REMPEL and MR. E. KRAHN
FILE : DASZ 47/04
PROPOSAL : An application for the approval of the plan of subdivision shown outlined above as may be determined by Council and for a proposed zoning change to By-law No. 6400/94 by rezoning the land shown outlined above from an "A.5" AGRICULTURAL DISTRICT to an "RM-3" MULTIPLE-FAMILY DISTRICT. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : M. KELLY REMPEL et M. E. KRAHN
N° DE DOSSIER : DALZ 47/04
PROJET : Demande visant à faire approuver par le Conseil le plan de lotissement indiqué ci-dessus et proposition de modification du *Règlement municipal n° 6400/94* visant à faire changer le zonage des sols délinéés ci-dessus qui passeraient de la catégorie A-5 (SECTEUR AGRICOLE) à la catégorie RM-3 (SECTEUR D'HABITATIONS MULTIFAMILIALES). **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 2335 and 2345 St. Mary's Road

Exhibits Filed:

1. Application dated November 30, 2004
2. Notification of Public Hearing dated December 16, 2004
3. Easement Declaration 1756269 dated November 10, 1993
4. Plans (4 pages)
5. Report from the Manager of Planning and Land Use dated February 15, 2005
6. Inspection Report
7. Photographs and supporting documentation submitted by Kelly Rempel at the Public Hearing held on March 15, 2005
8. Communication dated March 30, 2005, from Kelly Rempel requesting adjournment
9. Revised Plans (3 pages)
10. Site Plans (4 pages) submitted by Kelly Rempel at the Public Hearing held on May 17, 2005
11. Communication dated June 21, 2005, from Sarah Jimenez and Jonathan MacInnes in opposition to the application
12. Site Plans (4 pages) and communication submitted by Kelly Rempel at the Public Hearing held on June 21, 2005

REPRESENTATIONS:

In Support:

Kelly Rempel

In Opposition

Brian Bachinski
Craig Brown
Florence and Louis Dauphinais
Kevin and Michelle Ferguson
Robert Hall
Wayne Hassar
Deanne Heavysege
Sarah Jimenez
Jonathan MacInnes
Joanne and Michael McFadden
Wendy McLean
Brian Meldrum
Andy Nytepchuk
Derek Ozunko
Joan Saladin

Dan Stice
Tiffany Warren

For Information:

Malcolm and Shirley Tinsley
Justin Swandel

For the City:

Ernie Carriere, Land Development Engineer, Planning, Property and Development Department
Kevin Lalor, Senior Planner, Planning, Property and Development Department
Kevin Nixon, Park Strategic Planner, Planning, Property and Development Department
Michael Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

June 21, 2005
The applicant, Kelly Rempel, appeared in support of the application. Mr. Rempel stated that a meeting was held at the Dakota Community Centre on May 30, 2005 with himself, area Councillor Justin Swandel, Senior Planner Kevin Lalor and area residents in attendance. Mr. Rempel submitted revised plans (filed as Exhibit 12) and a summary of the changes that were agreed up at the meeting held on May 30, 2005, namely:

- Reduction of garage size from twenty-six (26) to twenty-four (24) stalls;
- Roof and wall detailing on the east side of the garage;
- Rotation of the garage to become parallel with the apartment building;
- Parking structure moved further to the north;
- Reduction of apartment roof pitch from 6/12 to 5/12 (thirty-one (31) inches lower);
- Greater emphasis on trees along the east and south property lines;
- Additional parking moved from rear yard to southwest corner;
- Six (6) foot fence along north property line up to the apartment structure.

Michelle Ferguson appeared in opposition to the application and iterated concerns regarding the size of the structure, privacy, damage to property as a result of construction, garage fan noise, carbon monoxide emissions from the garage fan and buffering. Ms. Ferguson volunteered to work with the applicant on the landscaping plans for the site, should the application be approved.

Kevin Ferguson appeared in opposition to the application. Mr. Ferguson reiterated concerns with respect to landscaping and exhaust fumes. Mr. Ferguson stated that area residents should be provided with the opportunity to sign off on plans for the development before it can proceed.

Brian Bachinski appeared in opposition to the application and reiterated concerns raised by Kevin and Michelle Ferguson. Mr. Bachinski indicated that his son suffers from asthma and asked that the developer do all he can to alleviate fumes generated by the garage. Mr. Bachinski asked that adequate buffering be incorporated into the site plan. Mr. Bachinski stated that this was not a suitable lot on which to build an apartment complex and that single-family homes would be a much better fit.

Councillor Swandel appeared for information with respect to the application. Councillor Swandel asked that the garage fan be located as far away from area residences as permitted by the provincial code. Councillor Swandel also asked that Mr. Rempel hire a landscape architect to design the landscaping plans and allow area residents to provide input on said plans.

Mr. Rempel returned in rebuttal. Mr. Rempel stated that piles will be drilled and not pounded and that he has liability insurance should any third party damage occur. Mr. Rempel stated that he would be willing to move the garage exhaust fans as far away from area residents as permitted. Mr. Rempel also stated that he would be willing to build a berm to better shield area residents if enough space was available. Mr. Rempel further stated that he would be willing to include area residents in the planning stages for landscaping.

May 17, 2005
The applicant, Kelly Rempel, appeared in support of the application and submitted revised site plans for the development, filed as Exhibit 10. Mr. Rempel stated that it was his intention to reduce the development to twenty-four (24) units and reposition the building further to the west. Mr. Rempel also stated that it would not be economically viable to reduce the height of the development to two stories and that the closest existing dwelling would be one hundred and forty (140) feet from the proposed building.

Dan Stice appeared in opposition to the application. Mr. Stice stated that he no longer represented the concerns of area residents and that his neighbours would like the opportunity to voice their own opposition. Mr. Stice further stated that the applicant has not met with area residents since March, despite the instruction of the Riel Community Committee.

Councillor Magnifico stated that it would be his intention to further adjourn the application to provide the applicant with a final opportunity to meet with area residents. Mr. Stice stated that the applicant has had ample opportunity to meet with area residents and requested that the Committee make a recommendation on the matter.

Councillor Justin Swandel appeared for information with respect to the application. Councillor Swandel stated that he would facilitate a meeting between the applicant and area residents prior to the next meeting of the Community Committee.

April 4, 2005
No representations were heard inasmuch as the Riel Community Committee adjourned the Public Hearing with respect to this application prior to opening representations.

March 15, 2005
The applicant, Kelly Rempel, appeared in support of the application. Mr. Rempel stated that he had met with area residents and the Senior Planner (Kevin Lalor) in an effort to address some of the following concerns raised by area residents:

- The proposed building is too large and will reduce sunlight;
- The proposed building will result in reduced privacy for existing residents;
- Fumes from vehicles will be detrimental to area residents.

Mr. Rempel stated that he took photographs of the adjoining properties from a point he deemed would be the location of the balconies on the proposed building and provided them to affected residents (filed as Exhibit 8). Mr. Rempel further stated that he would be willing to move the building north to provide for a twenty-one (21) foot side-yard instead of the proposed thirteen (13) feet to provide more of a buffer for area residents. Mr. Rempel also stated that he would ensure that the venting system for the parking garage would be located where it would least impact area residents.

In response to a question from Councillor Magnifico, Mr. Rempel stated that the closest house would be approximately one hundred and thirty (130) feet away from the proposed building and the average distance between existing residences and the proposed building would be approximately one hundred and fifty (150) feet.

Dan Stice appeared in opposition to the application on behalf of a committee comprised of area residents. Mr. Stice stated that area residents were still opposed to the application for reasons including the following:

- The meeting with area residents and the applicant was held on March 9, 2005 and left little time for the community to consider options or make suggestions;
- The applicant has not made any significant amendments to the plan aside from a proposal to move the building closer to St. Mary's Road;
- The proposed building is too large;
- The parking garage would be located too close to existing residences;
- The applicant did not fulfill the request to take pictures from a cherry picker illustrating how the development would impact the privacy of existing residents;
- The applicant did not fulfill the request to have a third party architect prepare a "shadowcast" of the proposed development showing how its construction would affect adjacent properties;

Mr. Stice requested that the matter be adjourned to provide the applicant and area residents with additional time to reach attempt to reach a consensus.

Michelle Ferguson appeared in opposition to the application and reiterated concerns raised by Mr. Stice. In response to a question from Councillor Magnifico, Ms. Ferguson stated that she and her neighbours would be willing to work with Mr. Rempel to develop something that could be mutually acceptable.

Councillor Steeves stated that the public hearing would be adjourned to provide area residents with the opportunity to fully evaluate the application and meet with the applicant.

February 22, 2005
Kelly Rempel appeared in support of the application, gave a brief overview of the proposal and advised Committee that he had visited area residents to advise them of his application.
Councillor Angus stated that he would be recommending that the public hearing be adjourned to provide Mr. Rempel the opportunity to meet with area residents as a group to discuss his proposal.

Councillor Magnifico asked if there was a spokesperson for area residents.

Dan Stice appeared in opposition to the application for the following reasons:

- Area residents were not properly notified of the public hearing and did not have enough information on the application;
- The proposed development is too large for the property;
- The proposed development is not in character with existing area homes;
- The proposed development does not provide adequate landscaping and buffering;
- There is concern that the emissions from the added vehicles will adversely affect an area resident with asthma.

Derek Ozunko appeared in opposition to the application and stated that he was told by his realtor, when purchasing his home, that the land in question was undevelopable and would remain agricultural.

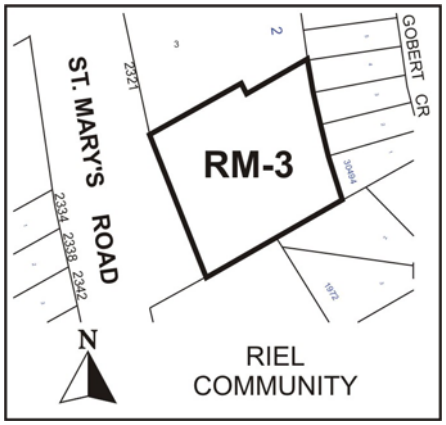
Exhibit "5" referred to in File DASZ 47/2004 [c/r DAV 337316/2004D]

Planning, Property and Development Department Report

To the Riel Community Committee

Date: February 15/05
File: DASZ 47 /04
Related Files: DAV 04 337316D
Subject: To rezone the subject land from an " A-5" Agricultural District to an " RM-3" Multiple Family District to allow for a total 36 unit condo housing project.

Location: 235/2345 St. Mary's Road
Legal Description: Lots 4& 6, Block 2, Plan 30489



Applicant: Kelly Rempel and Ed Krahn
Owner: City of Winnipeg

Recommendation: (Approve with Conditions)

Site Description

The subject property is situated south of Burland Avenue on the east side of St. Mary's Road and is a little over an acre in size .It is a residual parcel of City land not required for the future realignment of St. Mary's Road at the Perimeter Highway. It is currently zoned A-5 Agricultural. To the immediate east is a well established residential housing subdivision zoned R1-3.5 Residential. To the south are City owned lands, set aside for a future streets corridor and zoned A-5 Agricultural. On the west side of St. Mary's Road are dwellings zoned R1-5.5 and R1-6 Residential. There is a 15' wide drainage swale running along the east boundary line and down the south periphery of the property.

Background

The City of Winnipeg has entered into a purchase/ sales agreement with Mr. Rempel whereby the applicant will develop the site for multiple family housing upon receiving necessary Council approval. The City is absorbing all dedication costs.

Description of the Proposed Development

The applicant is proposing to construct two three story buildings on the front (most westerly) half of the property. Each complex has a total of eighteen (18) condo units.On the most easterly half of the lot is a one story indoor parking garage with capacity for 37 vehicles. Between the two residential buildings are an additional seventeen (17) visitor parking stalls. We do not as yet have a detailed landscaping plan; however, detailed site development plans will be required as part of the Schedule " A" Plan Approval under a zoning agreement outlined in the Recommendation Section. Primary access will be via St. Mary's Road.

Analysis

The City of Winnipeg Planning and Land Use Division takes the position that the highest and best use of the subject lands is low to medium density residential housing. It is not suitable for single family housing given that there will eventually be a new interchange constructed immediately adjacent. Neither is the site suitable for commercial development of any type. Commercial development at this location would be completely incompatible with adjoining residential development. However it is possible that a properly designed, housing complex, which is properly buffered and sensitive to the concerns of existing adjacent property owners, might serve several purposes at this location. First, it will help achieve one of the objectives of Plan Winnipeg , which is to provide new infill housing on existing vacant and readily serviceable parcels of land throughout the City. Second, if properly landscaped and designed, the new development will hopefully act as a moderate buffer between existing single family housing and the proposed new realignment for St. Mary's Road which when built, will advance the road

right-of –way somewhat closer to the residential area. As outlined in the previous section, it is imperative that the applicants strive to provide extensive landscaping throughout the site but particularly along the east and south property lines. Conifers, a minimum 6'-8' in height and possibly some berming would help to buffer and screen existing homes from the proposed housing complex. That level of detail, including any new proposed fencing should be reflected in the final Schedule " A" Plans.

Recommendation

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

- The site falls within a neighbourhood policy area which permits single and multiple family housing development.
- The location is readily serviceable and suitable for residential infill.
- A properly designed housing development of reasonable density may , in the future, help to act as a partial buffer between existing housing and anticipated road works (i.e. the realignment of St. Mary's Road).

Recommended Conditions of Approval

I. That the plan of subdivision proposed under File No. DASZ 47/04 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 47/04, attached hereto and dated February 15/05, for registration in the Winnipeg Land Titles Office.

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

III That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File No. DASZ 47/04, attached hereto and dated February15/05, to an "RM-3" Multiple Family District , subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to, to include the following conditions:

A. That final plans indicating location of buildings, building profiles, approaches, fencing and landscaping details, exterior lighting, signage, garbage enclosures, and parking areas be submitted to and approved by the Planning and Land Use Division and the Riel Community Committee prior to the issuance of any permits.

B. That the number of dwelling units be limited to a maximum of thirty-six (36) in total and building heights be limited to a maximum three (3) stories.

IV. 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 and the creation of additional sites, (if applicable).

V. 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.

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

VII. 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, and the Zoning Agreement has been filed by caveat in the Winnipeg Land Titles Office against those lands **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.**

VIII. 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.

IX. In the event that 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.

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

Report Prepared by: Kevin Lalor
PPD File # 529

By-Law No. _____

Atlas Sheet No.

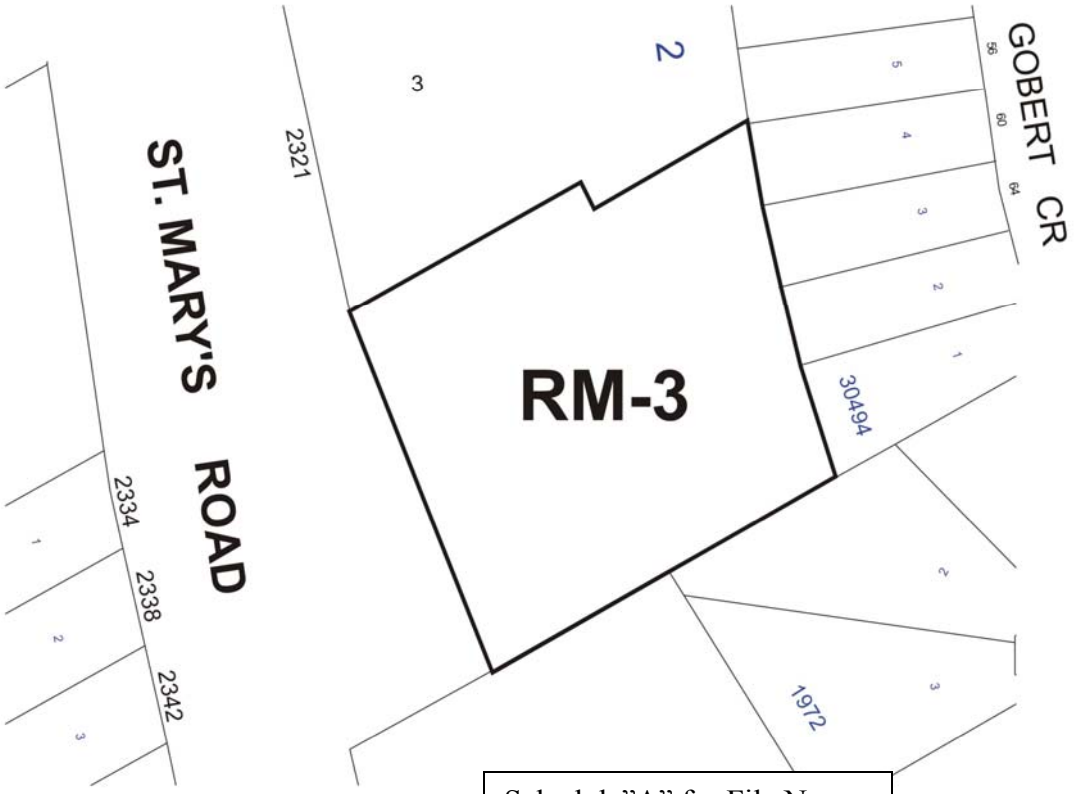
N

AL27
RIEL
COMMUNITY

File No. **DASZ 47/04**

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 2335 and 2345 St. Mary's Road from an "A.5" AGRICULTURAL DISTRICT to an "RM-3" MULTIPLE-FAMILY DISTRICT as shown outlined below.



Schedule"A" for File No. DASZ 47/04, Riel Community Committee, dated February 15/05

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____