Report - Standing Policy Committee on Property and Development – May 1, 2007

Item No. 9 Subdivision and Rezoning - 443 St. Anne's Road and 168 Sadler Avenue
(St. Vital Ward)
File DASZ 55/2006

STANDING COMMITTEE RECOMMENDATION:

On May 1, 2007, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submits the following to Council:

1. That the plan of subdivision under File DASZ 55/2006 be approved for preparation as a Plan of Subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 55/2006 dated March 6, 2007, 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 shown on Schedule "A" for File DASZ 55/2006 dated March 6, 2007, to a "C2" Commercial District subject to the applicant entering into a new Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to include the following conditions:

   A. That prior to new construction on the site, detailed site plans illustrating the location of new buildings or new additions, building profiles, parking areas, approaches, details of landscaping and fencing be submitted to and approved by the Director of Planning, Property and Development and the Riel Community Committee prior to the issuance of any building permits.

   B. That the hours of operation for the carwash component shall be restricted to 7:00 a.m. to 10:00 p.m.

4. 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).

Report - Standing Policy Committee on Property and Development – May 1, 2007

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.

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

11. 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 – May 1, 2007

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On May 1, 2007, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 10, 2007, the Riel Community Committee concurred in the administrative recommendation with the following amendment, namely:

- That the report from the Planning and Land Use Division dated March 6, 2007, be amended by adding the following Recommendation 3.B., namely:

  "3.B. That the hours of operation for the carwash component shall be restricted to 7:00 a.m. to 10:00 p.m."

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

On March 13, 2007, the Riel Community Committee adjourned the public hearing to its meeting on April 10, 2007.

RE: **Subdivision and Rezoning - 443 St. Anne's Road and 168 Sadler Avenue**
File DASZ 55/2006 [c/r DCU 110451/2007D and DAV 110461/2007D]

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

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

Report date: **April 17, 2007**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 10, 2007, the Riel 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 under File DASZ 55/2006 be approved for preparation as a Plan of Subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 55/2006 dated March 6, 2007, 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 shown on Schedule "A" for File DASZ 55/2006 dated March 6, 2007, to a "C2" Commercial District subject to the applicant entering into a new Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter, to include the following condition*s*:

   A. That prior to new construction on the site, detailed site plans illustrating the location of new buildings or new additions , building profiles, parking areas, approaches, details of landscaping and fencing be submitted to and approved by the Director of Planning, Property and Development and the Riel Community Committee prior to the issuance of any building permits.

   B. That the hours of operation for the carwash component shall be restricted to 7:00 a.m. to 10:00 p.m.

4. 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).

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.

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

11. 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 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 Planning and Land Use Division dated March 6, 2007.

PUBLIC HEARING SUMMARY

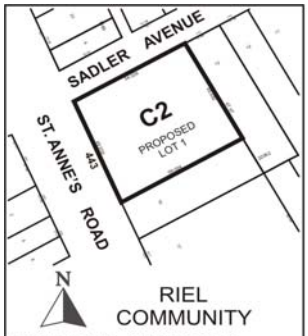
File: DASZ 55/2006 [c/r DCU 110451/2007D and DAV 110461/2007D]

Before: Riel Community Committee
Councillor Vandal, Chairperson
Councillor Steeves
Councillor Swandel

Public Hearing: April 10, 2007
March 13, 2007
Council Chamber, Council Building, 510 Main Street

Applicant: Cushman & Wakefield Lepage (Patrick Hamilton)

Subject:



APPLICANT : CUSHMAN & WAKEFIELD LEPAGE
FILE: DASZ 55/06
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 "R1-5" RESIDENTIAL DISTRICT and a "C1" COMMERCIAL DISTRICT to a "C2" COMMERCIAL DISTRICT. **For information, phone Mr. K. Lalor, Planner at 986-5069.**
DEMANDEUR : CUSHMAN & WAKEFIELD LEPAGE
N° DE RÉFÉRENCE : DALZ 55/06
PROJET : Demande d'approbation par le Conseil du plan de lotissement indiqué ci-dessus et proposition de modification du Règlement municipal sur le zonage n° 6400/94 visant à changer le zonage des sols délinéés ci-dessus qui passeraient des catégories R1-5 (SECTEUR RÉSIDENTIEL) et C1 (SECTEUR COMMERCIAL) à la catégorie C2 (SECTEUR COMMERCIAL). **Pour plus de renseignements, veuillez communiquer avec M. K. Lalor, urbaniste, au 986-5069.**

Premises Affected: 443 St. Anne's Road and 168 Sadler Avenue

Exhibits Filed:

1. Application dated February 14, 2007
2. Notification of Public Hearing dated February 15, 2007
3. Manitoba Status of Titles 1055403 and 2164076
4. Letter of authorization dated November 16, 2006 from Randall Shane Kille to Cushman & Wakefield Lepage
5. Plans (2 pages)
6. Site Plans (3 pages)
7. Report from the Planning and Land Use Division dated March 6, 2007
8. Inspection Report
9. Presentation in opposition to the application made by Angie Conrad at the Public Hearing on March 13, 2007
10. Site Plan submitted by Patrick Hamilton at the Public Hearing on April 10, 2007
11. Communication in opposition to the application submitted by Angie and Fernie Conrad at the Public Hearing on April 10, 2007

REPRESENTATIONS:

In Support:

Patrick Hamilton
Peggy and Marvin Miller
Rob Roe

In Opposition

Angie and Fernie Conrad
Peter J. and Mary Dyck
Shaila Ekramoddoullah
Andrew Giesbrecht
R. M. Johnson
Linda Louttit-Wichers and Shane Louttit
Richard Pierre
Brad Rogers

For the City:

Mr. K. Raban, Land Development Administrator, Planning, Property and Development Department
Mr. K. Lalor, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

The applicant, Patrick Hamilton, appeared in support of the application and gave a brief overview of the proposal. Mr. Hamilton indicated that he had met with some of the area property owners in an effort to mitigate any negative influences the proposed expansion would have on the area.

Angie Conrad appeared in opposition to the application and read into the record her presentation, filed as Exhibit 9, which included a petition in opposition to the application purporting to contain the signatures of twenty-five (25) area residents.

Andrew Giesbrecht appeared in opposition to the application for the following reasons:

- He has not been informed as to the details/scope of the development;
- Expansion will create even more light pollution;
- New carwash will create more noise;
- Garbage from the existing site is already a problem and a fence should be constructed to help prevent it from being spread throughout the neighbourhood;
- Expansion will decrease property values in the area;

Richard Pierre appeared in opposition to the application and reiterated concerns regarding noise pollution and decreased property values.

Shane Louttit appeared in opposition to the application and reiterated concerns regarding noise pollution. Mr. Louttit stated that he would like to see the plans for the proposed development and iterated concerns that the proposal could adversely affect traffic in the area.

Patrick Hamilton returned in rebuttal. Mr. Hamilton stated that he would be willing to meet with area residents to discuss their concerns. Mr. Hamilton further stated that the proposal will modernize the existing business and provide an opportunity to develop a landscaping plan and fencing that will ultimately benefit the area.

April 10, 2007

Patrick Hamilton, accompanied by Rob Roe, appeared in support of the application. Mr. Hamilton stated that the applicants had met twice with area residents since the last public hearing and the residents had requested that sixteen (16) conditions be complied with; Mr. Hamilton indicated that the developer would be able to accommodate twelve (12) of the sixteen (16) conditions. Mr. Hamilton submitted a revised site plan, filed as Exhibit 10. Rob Roe stated that Husky is improving the site by adding a touchless car wash to expand its customer base and ensure the future viability of the business.

Angie Conrad appeared in opposition to the application. Ms. Conrad submitted a communication (filed as Exhibit 11) and summarized sixteen (16) conditions that she indicated area residents would like to have incorporated should the application be approved. Ms. Conrad

stated that Husky has made concessions verbally but area residents would like confirmation from the applicant, in writing, that said conditions will be met.

Ms. Conrad stated that the applicant has not agreed to the following conditions outlined in her communication:

- The elimination of the Variance;
- The removal of the three (3) parking stalls along the east side of the property;
- The hours of operation being limited to 7:00 a.m. to 10:00 p.m. Monday to Saturday and 8:00 a.m. to 10:00 p.m. on Sundays;
- Husky has agreed to erect a six (6) foot high double sided fence along the east side of the property but have not committed to said fence being solid on both sides;
- Husky has agreed to planting two (2) rows of coniferous trees along the entire east and north property lines but the plans submitted do not reflect this;
- Relocating the vaccums to the inside of the car wash.

Ms. Conrad further stated that area residents have requested that traffic lights be installed at the intersection of Sadler Avenue and St. Anne's Road.

Patrick Hamilton and Rob Roe returned in rebuttal. Mr. Hamilton stated that Husky has been diligent in making as many compromises as possible to accommodate area residents. Mr. Hamilton indicated that the application is subject to Plan Approval and that final plans will be considered by the Committee at a future date. Mr. Hamilton stated that the site has been vacant for fifteen (15) years and is an eyesore and Husky is willing to clean up the lot to the benefit of area residents. Mr. Hamilton further stated that the proposal is in character with development along St. Anne's Road.

In response to questions from Committee, Rob Roe stated:

- The current carwash is operational twenty-four (24) hours a day but the applicant is willing to limit the hours of operation of the carwash component to 6:00 a.m. to 10:00 p.m.
- Doors that will close automatically have been built into the design of the carwash to mitigate noise pollution.
- The vacuums are located at the entrance to the carwash bay and, due to the design of the carwash, the vacuums cannot be relocated inside the building. It might be possible to move the vacuums but the parking would have to be reconfigured.
- Limiting the buffer zone to twenty-five feet would not be viable.
- They have revised their plan to reflect increased buffering and are willing to construct a fence with wider planks.
- The trees that they will install will be eight (8) foot trees that will survive as per the recommendation from their landscape architect.

Kevin Lalor, Senior Planner, Planning, Property and Development stated that issues including, but not limited to, landscaping, buffering, fencing and the location of vacuums will be addressed at the Plan Approval stage. Councillor Steeves indicated that the plans submitted should reflect the vacuums being moved as far west as reasonably possible.

Exhibit "7" referred to in File DASZ 55/2006 [c/r DCU 110451/2007D and DAV 110461/2007D]

Winnipeg

Planning, Property and Development Department Report

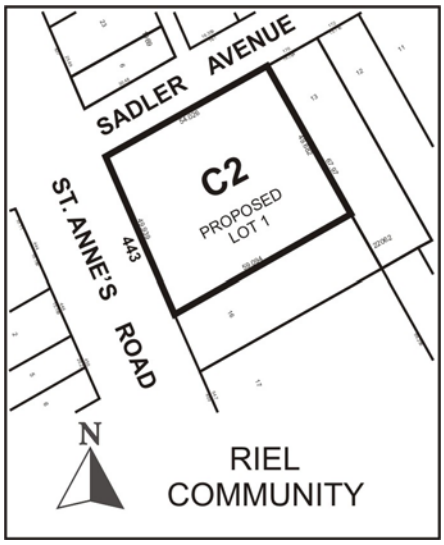
To the Riel Community Committee

Date: March 6/2007
File: DASZ 55/06
Related Files: DAV 07 110461D, DCU 07 110451D

Subject: To consolidate two adjoining lots and rezone the combined property from a "C1" Commercial District and an " R1-5" Residential District to a " C2" Commercial District to facilitate the expansion and redevelopment of an existing Mohawk gas outlet.

Location: 443 St. Anne's Road

Legal Description: Lot 15 , Plan 22062 and Lot 14 , Plan 22062



Applicant: Cushman & Wakefield LePage

Owner: Mohawk Property Corp. & Randall Shane Kille

Recommendation: Approve with Conditions

Site Description:



The subject site is situated at the S.E. corner of Sadler Avenue and St. Anne's Road. For a number of years, there has been a one story Mohawk gas outlet operating on the site in addition to an attached carwash on the south half of the property. The buildings/use, which have been zoned "C1" have had a non conforming status under the by-law. To the immediate North is Borowski's Vitamins & Health Foods zoned " C1" Commercial. To the East along Sadler Avenue is an established single family housing area zoned " R1-5" Residential. To the immediate South is an apartment complex zoned "RM-2" Multiple Family. And on the opposite side of St. Anne's Road are a mix of businesses zoned "C1" and "C2" Commercial. The current business is accessed via both St. Anne's Road and a single access to and from Sadler Ave.

Description of the Proposed Development:

The applicant's are proposing to consolidate their existing property with a recently acquired adjoining residential lot (Kille property) to the East. The two properties combined total approximately .69 acres. Procedurally , by expanding their existing use, Mohawk loses it non

conforming rights and therefore has to rezone the combined property in its entirety to a " C2" zoning designation. The fuel sales, convenience store component and the re-configured car-wash addition also require a conditional use approval. From a site design standpoint, the location of the new gas islands and main building does not significantly change; however, the drive –thru carwash and coin operated wand wash area are to the rear of the main structure instead of on the south side as was previously the case. Ten on -site parking stalls are to be provided and access points/ approaches are to remain the same. The applicant indicates that there will be a 13'-14' wide heavily landscaped buffer strip along the East property line in addition to some landscaping along the North property line. And a new 6' high solid wood fence will be constructed and maintained along the east property line and it appears that a fence of similar height and design will be established along the South property line. At this point, there has been no indication as to the projected hours of operation of either the carwash or the gas sales outlet.

Analysis:

The owners have indicated that most of the Mohawk operations in South Winnipeg are due for some upgrading and in some cases are being expanded. The subject proposal is unique, in some ways, in that adjoining lands have been purchased are proposed to be incorporated in order to provide more space for parking and queuing areas. The Planning Property and Development Department is supportive of the proposed consolidation and rezoning recognizing that the on-site uses will continue to be the same. However, it is imperative that there be adequate separation and buffering between the existing residences to the East and North and the proposed new coin operated wand wash bays. The accompanying plan suggests that there will be approximately 32' to 35' of separation between the wand wash operation and the west wall of the existing dwelling which will be extensively landscaped . Hopefully a portion of the existing tree line can be saved and incorporated into the new landscaping plan . A new 6' high fence is also to be constructed and the adjoining property owner's existing garage will also act as additional buffer. It should be noted that we would like to see a minimum 4' high fence constructed along the North property line between the existing approach to Sadler and the East boundary line. That fence, in addition to the proposed landscaping should mitigate the impact of any vehicle head-lights coming out of the carwashs on the residential property owners living on the North side of Sadler Avenue. All suggested changes to the Plan outlined in this report or at the Riel Community Committee Hearing should be reflected in the final Schedule "A" plans submitted to Community Committee prior to the issuance of building permits.

Recommendation:

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

- The proposed upgrading should not have any significant impact on the adjoining neighbourhood, if the proper landscaping and fencing and suggested separation space is adhered to.

Recommended Conditions of Approval

I. That the plan of subdivision proposed under File No. DASZ 55/06 be approved for preparation as a Plan of Subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File # DASZ 55/06 attached hereto and dated March 6/07 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 55/06, attached hereto and dated March 6/07, to a "C2" Commercial, subject to the applicant entering into a new Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to, to include the following conditions:

A. That prior to new construction on the site, detailed site plans illustrating the location of new buildings or new additions , building profiles, parking areas, approaches, details of landscaping and fencing be submitted to and approved by the Director of Planning, Property and Development and the Riel Community Committee prior to the issuance of any building permits.

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.

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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.

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

XI. 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: Kevin Lalor
PPD File # 5.51

By-Law No. _____

File No. **DASZ 55/06**

Atlas Sheet No.

N

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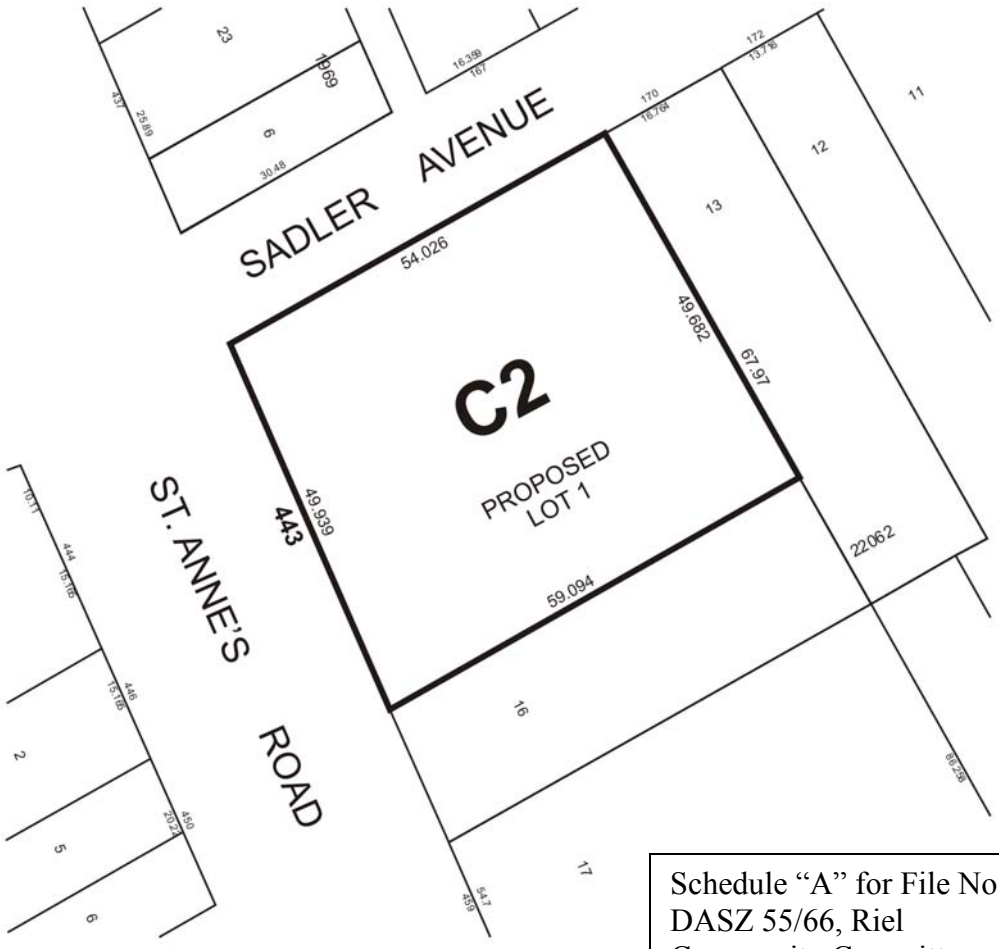
RIEL
COMMUNITY

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 443 St. Anne's Road and 168 Sadler Avenue from an "R1.5" RESIDENTIAL DISTRICT and a "C1 COMMERCIAL DISTRICT to a "C2" COMMERCIAL DISTRICT as shown outlined below.



Schedule "A" for File No. DASZ 55/66, Riel Community Committee, dated March 6/07

THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____