Agenda - Executive Policy Committee – May 18, 2011

Report - Standing Policy Committee on Property and Development – May 10, 2011

Item No. 8 Subdivision and Rezoning – 79 Fermor Avenue
(St. Vital Ward)
File DASZ 2/2011 [c/r DAV 108251/2011D]

STANDING COMMITTEE RECOMMENDATION:

On May 10, 2011, 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 proposed under File DASZ 2/2011 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 2/2011 dated April 6, 2011, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 2/2011 dated April 6, 2011, to an "R2" Residential District.

3. That in lieu of the requirement for land dedication, a sum of money, calculated as ten percent (10%) of the increase in market value of the land and the creation of additional lots, be paid to the City for the purchase of land for purposes of the City other than streets.

4. That Caveat 1285745 (DAZ 238/87) be withdrawn as it affects Lot 32 Block 4 Plan 2785.

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

6. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two (2) years 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 the two (2) year period and Council approves the extension.

7. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

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

Report - Standing Policy Committee on Property and Development – May 10, 2011

9. 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.

10. That the plan of subdivision shall be approved and signed by the Director of Planning, Property and Development within one (1) year from the date the by-law is passed, failing which 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 the one-year period and Council approves the extension.

11. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twelve (12) months after adoption of the by-law, 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 twelve (12) month period and the extension is subsequently approved by Council.

12. 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.

Agenda - Executive Policy Committee – May 18, 2011

Report - Standing Policy Committee on Property and Development – May 10, 2011

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On May 10, 2011, 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 18, 2011, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

RE: **Subdivision and Rezoning – 79 Fermor Avenue**
File DASZ 2/2011 [c/r DAV 108251/2011D]

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

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

Report date: **April 19, 2011**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 18, 2011, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development:

1. That the plan of subdivision proposed under File DASZ 2/2011 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 2/2011 dated April 6, 2011, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 2/2011 dated April 6, 2011, to an "R2" Residential District.

3. That in lieu of the requirement for land dedication, a sum of money, calculated as ten percent (10%) of the increase in market value of the land and the creation of additional lots, be paid to the City for the purchase of land for purposes of the City other than streets.

4. That Caveat 1285745 (DAZ 238/87) be withdrawn as it affects Lot 32 Block 4 Plan 2785.

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7. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

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

9. 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.

10. That the plan of subdivision shall be approved and signed by the Director of Planning, Property and Development within one (1) year from the date the by-law is passed, failing which 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 the one-year period and Council approves the extension.

11. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twelve (12) months after adoption of the by-law, 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 twelve (12) month period and the extension is subsequently approved by Council.

12. 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.

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 of the Planning and Land Use Division dated April 6, 2011.

PUBLIC HEARING SUMMARY

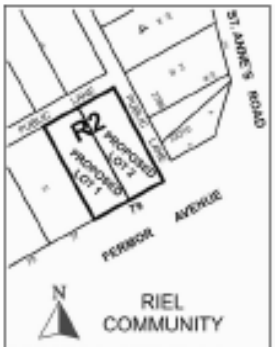
File: DASZ 2/2011 [c/r DAV 108251/2011D]

Before: Riel Community Committee
Councillor Swandel, Chairperson
Councillor Steeves

Public Hearing: April 18, 2011
Council Chamber
Council Building, 510 Main Street

Applicant: John Baluta

Subject:



APPLICANT : JOHN BALUTA
FILE : DASZ 2/11
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. 200/2006 by rezoning the land shown outlined above from a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT and an "R2" RESIDENTIAL TWO-FAMILY DISTRICT and to discharge the existing caveat restricting use and site design on the land. **For information, phone Mr. R. Kostiuk, Planner at 986-7367.**
DEMANDEUR : JOHN BALUTA
N° DE RÉFÉRENCE : DALZ 2/11
PROJET : Demande d'approbation par le Conseil du plan de lotissement relatif aux sols délinéés ci-dessus et proposition de modification du Règlement municipal n° 200/2006 visant à changer le zonage des sols délinéés ci-dessus qui passeraient de la catégorie C1 (SECTEUR COMMERCIAL DE QUARTIER) à la catégorie R2 (SECTEUR RÉSIDENTIEL BIFAMILIAL) et à enlever la restriction actuelle s'appliquant à l'utilisation et à la conception du site sur le bien-fonds. **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 986-7367.**

Premises Affected: 79 Fermor Avenue

Exhibits Filed:

1. Application dated February 17, 2011
2. Notification of Public Hearing dated March 9, 2011
3. Manitoba Status of Title 2027877
4. Letter of authorization dated February 3, 2011 from John and Martha Baluta to John Baluta
5. Surveyor's Building Location Certificate and sketch dated September 28, 1973
6. Caveat No. 1285745
7. Zoning Agreement dated September 9, 1987
8. Plans (5pages)
9. Report from the Planning and Land Use Division dated April 6, 2011
10. Inspection Report

REPRESENTATIONS:

In Support:

John and Martha Baluta

In Opposition

Richard E. Roy

For the City:

Mr. R. Kostiuk, Planner, Planning, Property and Development Department

Exhibit "9" referred to in File DASZ 2/2011

ADMINISTRATIVE REPORT

Title: DASZ 2/2011 – 79 Fermor Avenue Public Hearing

Issue: For consideration at the Public Hearing for a subdivision and rezoning to create two (2) R2-zoned lots

Critical Path: Riel Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	N/A	N/A	

RECOMMENDATIONS

1. That the plan of subdivision proposed under File DASZ 2/2011 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 2/2011 dated April 6, 2011, with such minor changes as may be required, and registration in the Winnipeg Land Titles Office.

2. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 2/2011 dated April 6, 2011, to an "R2" Residential District.

3. That in lieu of the requirement for land dedication, a sum of money, calculated as ten percent (10%) of the increase in market value of the land and the creation of additional lots, be paid to the City for the purchase of land for purposes of the City other than streets.

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

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11. That in the event the necessary City of Winnipeg mylar approval signatures have not been secured within twelve (12) months after adoption of the by-law, 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 twelve (12) month period and the extension is subsequently approved by Council.

12. 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 is proposing to rezone the site from “C1” Commercial Neighbourhood to “R2” Residential Two-Family and subdivide the property in order to create two (2) lots.
- A total of four (4) dwelling units are proposed on the site as each lot would have a bi-level duplex (two-family dwelling).
- Each proposed lot will be 38.65 feet wide by 103.55 feet deep (4,002 square feet in area).
- Subdivisions and rezonings 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 Planning and Land Use Division are concurred in, the land will be rezoned to “R2” Residential Two-Family and subdivided into two (2) lots.

HISTORY

DAZ 238/87

- On September 9, 1987, Council recommended approval of the rezoning of the subject property from R1 to C1. The conditions of approval included that the applicant enter into a zoning agreement with the City (Caveat 1285745). Relevant conditions of the zoning agreement are as follows:

    2. The land and any building or structure thereon shall not be used for, and no building or structure shall be erected, placed, altered or enlarged on the land for any use except:
        a) business or professional offices
        b) uses incidental and accessory to such offices.
    3. Those permitted uses shall be carried on only within the existing one-family dwelling located on the land commonly known as 79 Fermor Avenue.
    4. No additions shall be constructed or made to that one-family dwelling and no exterior alterations shall be made to it except in accordance with plans to be submitted to and approved by the St. Boniface-St. Vital Community Committee and approved as part of Schedule "A" to this agreement.
    5. No such exterior alterations shall be made and no building permit shall be issued for any work on the land or occupancy permit issued for such permitted offices unless and until plans including the location and design of such additions if any, the location and design of garbage facilities, accessory parking and loading areas and fencing are submitted to and approved by the St. Boniface-St. Vital Community Committee and thereafter identified by the signature of or on behalf of the Commissioner of Planning and Community Services under the designation Schedule "A" to Zoning Agreement DAZ 238/87 and no buildings, alterations, structures or works shall be constructed or placed on the land except in accordance with that Schedule "A" to this agreement and any amendments to that schedule or this agreement.
    6. All fencing, landscaping and garbage enclosures shown on Schedule "A" shall be completed within three (3) months of occupancy, in whole or in part, of such permitted offices, unless an extension of that time is approved by that Community Committee and those works including that landscaping shall be maintained in good condition at all times to the satisfaction of that Commissioner.
    7. No free-standing signs shall be located on the land or building and no other signs shall be located thereon except in accordance with a plan showing the design and location thereof submitted to and approved by that Commissioner and attached to and forming part of that Schedule "A" prior to the issuance of a permit for such sign.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Planning and Land Use
Date:	April 6, 2011
File No.	DASZ 2/11

List of Schedules and Attachments

1. Appendix A – Planning Discussion
2. Schedule “A” for File No. DASZ 2/11

APPENDIX 'A'

DATE: April 6, 2011

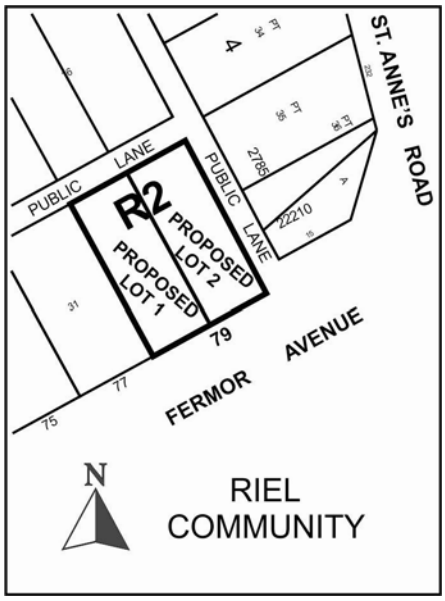
FILE: DASZ 2/11
RELATED FILES: DAV 11-108251/D (c/r), DAZ 238/87

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.516

SUBJECT: To rezone the subject land from "C1" Commercial Neighbourhood to "R2" Residential Two-Family and subdivide the property in order to create two (2) R2-zoned lots.

LOCATION: 79 Fermor Avenue

LEGAL DESCRIPTION: LOT 32 BLOCK 4 PLAN 2785 112/113 ST B



APPLICANT: John Baluta
132 ARMSTRONG AVE
WINNIPEG MB R2V 1P4

OWNER: John & Martha Baluta
132 ARMSTRONG AVE
WINNIPEG MB R2V 1P4

RECOMMENDATION: Approval

REPORT SUMMARY

- The applicant is proposing to rezone the site from “C1” Commercial Neighbourhood to “R2” Residential Two-Family and subdivide the property in order to create two (2) lots.
- A total of four (4) dwelling units are proposed on the site as each lot would have a bi-level duplex (two-family dwelling).
- Each proposed lot will be 38.65 feet wide by 103.55 feet deep (4,002 square feet in area).
- The existing one-story home on the site will be demolished.
- The Planning and Land Use Division recommends supporting this subdivision and rezoning application.

SITE DESCRIPTION

- The subject property is located on the north side of Fermor Avenue, just west of the Fermor Avenue and St. Anne’s Road intersection in the Varennes neighbourhood of the St. Vital Ward.
- The property is approximately 77.3 feet wide by 103.55 feet deep **(8,004 square feet in area)**.
- The subject property contains a one storey, 962 square foot house that was built in 1929.
- Lanes are located north and east of property.
- The site is within Plan Winnipeg 2020’s Neighbourhood Land Use Policy Area. Under the *Draft* Complete Communities Direction Strategy, the site is within the Areas of Stability – Mature Communities Policy Area and is located adjacent to a Regional Mixed Use Corridor (St. Anne’s Road). The property is zoned “C1” Commercial Neighbourhood.



Figure 1: Aerial photograph showing approximate area of subject property (flown 2009)

SURROUNDING LAND USES & ZONING (See Figure 2)

North: Detached single-family homes zoned “R1-M” Residential Single-Family Medium.

South: Fermor Avenue and detached single-family homes zoned “R1-M” Residential Single-Family Medium.

East: A garage (Mr. Lube) zoned “C2” Commercial Community.

West: Detached single-family homes zoned “R1-M” Residential Single-Family Medium.

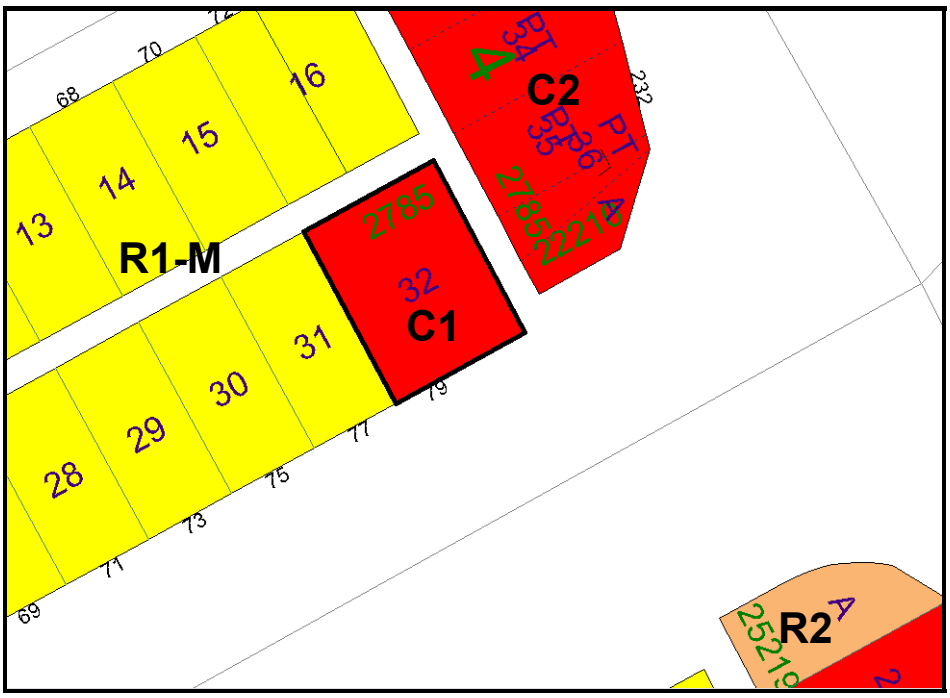


Figure 2: Zoning of the site and surrounding area.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to rezone the site from “C1” Commercial Neighbourhood to “R2” Residential Two-Family and subdivide the property in order to create two (2) lots.
- Each proposed lot will be 38.65 feet wide by 103.55 feet deep (4,002 square feet in area).
- The existing one-story home on the site will be demolished.
- A total of four (4) dwelling units are proposed on the site as each lot would have a bi-level duplex (two-family dwelling).
- Each unit within the duplexes would provide approximately 1,250 square feet of living space for the occupant(s).
- Parking will be located behind the duplexes with vehicular access being provided from the back lane.
- A variance is required lot width, lot area, and lot area per dwelling unit (see cross referenced file DAV 11-108251/D).
- The applicant is also requesting to discharge the existing caveat on the land related to permitted uses and design considerations for commercial development on the property (see History Section).

ANALYSIS AND ISSUES

PLAN WINNIPEG

- The proposed development is within the Neighbourhood Policy Area and complies with *Plan Winnipeg 2020*.

DRAFT COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Draft Complete Communities Direction Strategy* the proposed development is within the Areas of Stability – Mature Communities policy area. Key relevant policies guiding development within Areas of Stability include:
    - Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.
    - Encourage intensification to occur at centres and along corridors.
    - Support Complete Communities by ensuring diverse and high quality housing stock.
    - In order to meet the full life-cycle of housing needs within the community, promote a mix of housing type and tenure, such as duplexes, low rise apartments, secondary suites, semi-detached homes, townhouses.
    - Support the subdivision of a parcel of land into two or more lots when it is done in a context sensitive manner.
- It should be noted that the site is also located near a Regional Mixed Use Corridor (St. Anne's Road) and near a major intersection. Key policies guiding the development of Regional Mixed Use Corridors under the *Draft Complete Communities Direction Strategy* 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.
    - Support a range of housing opportunities in terms of type, tenure, unit size.
    - Promote the highest levels of intensification at significant intersections. Between each centre, lower intensities of commercial, residential and mixed use development are appropriate.
    - Encourage the transition of development towards the outer edges of each Centre and Corridor that is sensitive to the scale, massing, height, form and character of the surrounding area.

ZONING

"C1" Commercial Neighbourhood District

- The 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. There are no minimum front, rear or side yards in this zone. The maximum building height is 39 feet and the maximum floor area ratio is 1.0.

"R2" Residential Two-Family Large District

- The R2 district is intended to accommodate the development of single and two-family units and where appropriate limited multi-family units in lower density neighbourhoods. The R2 district requires: a minimum lot width of 25 feet, a minimum lot area of 5,000 square feet (2,500 per dwelling unit for two-family dwellings), 4 foot side yards, a front yard of 20 feet, and a rear yard of 25 feet. The maximum building height is 35 feet.

LAND USE BY-LAW

Rezoning

- The applicant would like to develop two duplexes on the site. Normally the development of a two-family dwelling or a multi-family dwelling would only require a conditional use application for C1-zoned properties. However, the subject property has a restrictive zoning agreement on it that only allows a business or professional office and related accessory uses on the site.
- The applicant could have applied to amend the zoning agreement to allow for two-family uses and applied for a conditional use for the duplexes. Instead the applicant chose to apply to rezone the land to R2, which is the zoning category that is best suited for the proposed two-family developments.

Variances

- The minimum required lot area per dwelling unit in the R2 zone is 2,500 square feet. The applicant is proposing minimum lot areas per dwelling unit of 2,001 square feet, which is approximately 20% less than the By-Law requirement.
- The proposed development also does not meet the Special Boundary Conditions of Zoning By-Law No. 200/2006. Section 138 of Zoning By-law No. 200/06 prescribes Special Boundary Conditions pertaining to the subdivision of land. If an undeveloped parcel of land is located in the R1 or R2 zoning districts, or proposed for rezoning to the R1 or R2 zoning districts, and abuts an existing R1 or R2 zoning district, or is separated from an R1 or R2 zoning district by a street right-of-way, railroad right-of-way, or waterway, the undeveloped parcel must not be subdivided unless the width/square footage of the proposed lot(s) within 200 feet (measured from the edges of the proposed subdivision) of the adjacent R1 or R2 zoning district is not less than the average lot width/square footage of existing developed lots in residential use in the adjacent R1 or R2 areas along such shared boundary, but in no case may be less than 35 feet.
- The average lot width and lot areas of existing developed lots in the adjacent R1 and R2 zoned properties within 200 feet of the subject property are:
    - lot widths of 43.61 feet, and
    - lot areas of 4,487 square feet.
- The applicant is proposing:
    - lot widths of 38.65 feet, which are approximately 11.4% narrower than the lots included in the special boundary calculation, and

- lot areas of 4,002 square feet, which are approximately 10.8% smaller than the lots included in the special boundary calculation.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The subject property fronts onto Fermor Avenue (vehicular access is via a frontage road) and is located adjacent to properties fronting onto St. Anne's Road, which are both major arterials.
- The proposed development is consistent with the relevant *Draft* Complete Communities policies as it allows for moderate change that is consistent with the existing built form and character of the area.
- The proposed increase in density on the site is located at the corner of a major intersection. A lane is located immediately north and east of the property. As such, any increase in traffic due to the minor increase in density on the site should generally be limited to being around the subject property.
- The scale and form of the development is consistent with the neighbouring R1-zoned properties.
- The proposed intensification provides a good transition/buffer between the neighbouring single-family homes to the west and the commercial development fronting onto St. Anne's Road.
- The lots created would be similar to the size of the neighbouring lots to the north, which are approximately:
    - 45.2 feet wide by 102.5 feet deep, or 4,633 square feet in area (74 Inman Avenue)
    - 35 feet wide by 102.5 feet deep, or 3,588 square feet in area (72 Inman Avenue).
- Technically, the applicant is applying to down-zone the land from C1 to R2; however, there is a very restrictive zoning agreement in place with the C1 zoning.

REMOVAL OF CAVEAT 1285745 (DAZ 238/87)

- The Planning and Land Use Division is recommending that the existing caveat restricting the use and design of the property be removed. This caveat would no longer be relevant to the subject property if it is rezoned from C1 to R2.
- The removal of this caveat was advertised in the newspaper.

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.

RECOMMENDATION

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

- Increasing residential density and helping to achieve a compact urban form are key policies of Plan Winnipeg and the *Draft* Complete Communities Direction Strategy that are fulfilled by this application.
- The proposed minor intensification provides a good transition/buffer between the neighbouring single-family homes to the west and the commercial development fronting onto St. Anne's Road.
- The scale and form of the development is consistent with the neighbouring R1-zoned properties.

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

Report Prepared By: Robert Kostiuk
PPD File # DASZ 2/11

Schedule "A" for File No. DASZ 2/2011, Riel Community Committee, dated April 6, 2011

By-Law No. _____

File No. **DASZ 2/11**

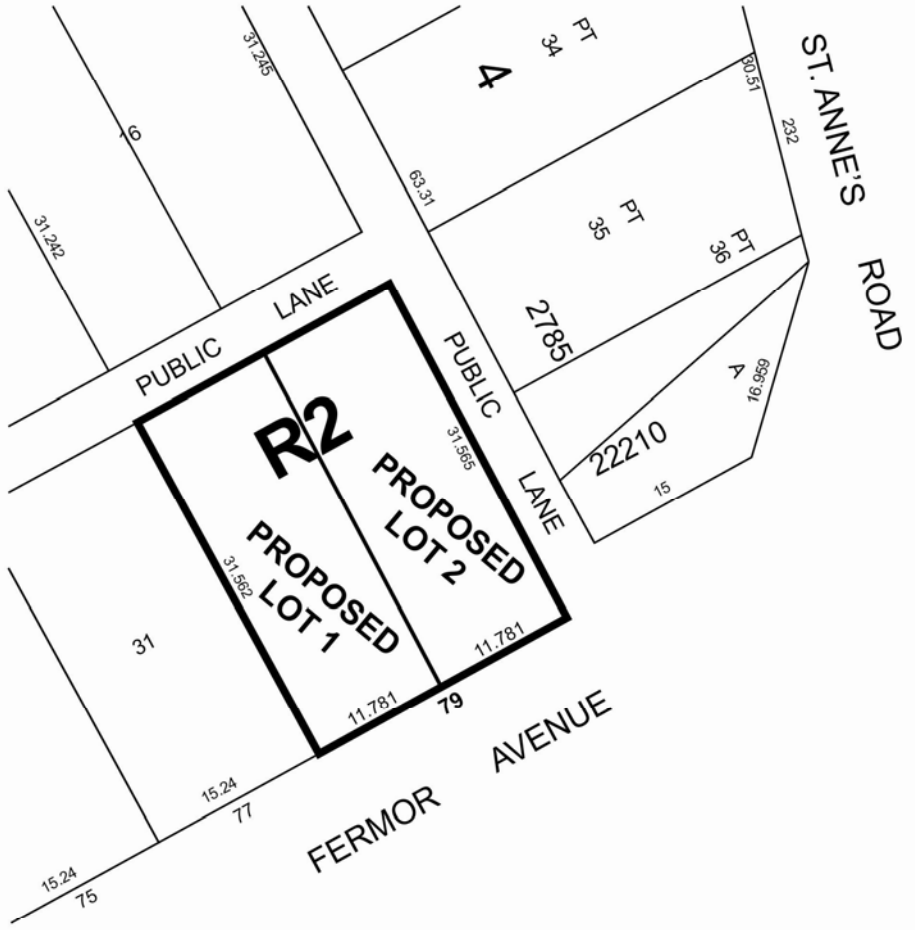
Atlas Sheet No.

N

AE27
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. 200/2006 by rezoning the land located at 79 Fermor Avenue from a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT and an "R2" RESIDENTIAL TWO-FAMILY DISTRICT and to discharge the existing caveat restricting use and site design on the land as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____