Minute No. 456
Report – Standing Policy Committee on Property and Development – June 12, 2012

Item No. 1 **Rezoning – 133 Horace Street**
(St. Boniface Ward)
File DAZ 231/2010 [c/r DAV 174006/2010D and DCU 174036/2010D]

COUNCIL DECISION:

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

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 231/2010 dated March 21, 2012 to a "C2" Commercial Community 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 following uses shall not be permitted on the land:

            a. Drinking Establishment;
            b. Restaurant over 2,500 square feet in gross floor area;
            c. Office over 5,000 square feet in gross floor area;
            d. Personal Services over 5,000 square feet in gross floor area;
            e. Retail Sales over 5,000 square feet in gross floor area;
            f. Landscape or Garden Supplies;
            g. Supermarket;
            h. Auto/Light Truck/Motorcycle, Repair & Service;
            i. Auto/Light Truck/Motorcycle, Sales & Rental;
            j. Auto Parts and Supplies, Sales;
            k. Drive-In or Drive-Through;
            l. Fuel Sales;
            m. Contractor's Establishment;
            n. Recycling Collection Centre;
            o. Amusement Enterprise, Indoor;
            p. Advertising Sign
            q. X-Rated Store
            r. Pawnshop

Report – Standing Policy Committee on Property and Development – June 12, 2012

COUNCIL DECISION (continued):

ii. That the following uses shall not be operated or open for public access on any day of the week between 9:00 p.m. and 9:00 a.m.:

a. Personal Services
b. Retail Sales

iii. That the following signs shall not be permitted on the land:

a. Illuminated signs;
b. Electronic Message Board signs;
c. Rotating signs;
d. Mobile signs;
e. Banner signs;
f. A-Board signs;
g. Inflatable signs;

iv. That any free-standing identification sign shall not exceed eight (8) feet above grade in height;

v. That any free-standing identification sign shall not exceed forty-eight (48) square feet in area;

vi. That for the development of any building, and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the Riel 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.

Report – Standing Policy Committee on Property and Development – June 12, 2012

COUNCIL DECISION (continued):

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 the same to Council for all three (3) readings.

5. That the zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date by-law is passed.

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

7. That the 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.

Report - Standing Policy Committee on Property and Development – June 12, 2012

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 June 20, 2012, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 12, 2012, 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 May7, 2012, the Riel Community Committee did not concur in the recommendation of the Winnipeg Public Service and forwarded the following to the Standing Policy Committee on Property and Development:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 231/2010 dated March 21, 2012 to a "C2" Commercial Community 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:

Report - Standing Policy Committee on Property and Development – June 12, 2012

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

i. That following uses shall not be permitted on the land:

a. Drinking Establishment;
b. Restaurant over 2,500 square feet in gross floor area;
c. Office over 5,000 square feet in gross floor area;
d. Personal Services over 5,000 square feet in gross floor area;
e. Retail Sales over 5,000 square feet in gross floor area;
f. Landscape or Garden Supplies;
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h. Auto/Light Truck/Motorcycle, Repair & Service;
i. Auto/Light Truck/Motorcycle, Sales & Rental;
j. Auto Parts and Supplies, Sales;
k. Drive-In or Drive-Through;
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m. Contractor's Establishment;
n. Recycling Collection Centre;
o. Amusement Enterprise, Indoor;
p. Advertising Sign
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Report - Standing Policy Committee on Property and Development – June 12, 2012

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

iv. That any free-standing identification sign shall not exceed eight (8) feet above grade in height;

v. That any free-standing identification sign shall not exceed forty-eight (48) square feet in area;

vi. That for the development of any building, and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the Riel 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.

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

Report - Standing Policy Committee on Property and Development – June 12, 2012

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

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.

On April 2, 2012, the Riel Community Committee did not hear any representations on the application and adjourned the public hearing to its meeting on May 7, 2012 at 5:00 p.m. in the Council Building located at 510 Main Street.

RE: **Rezoning– 133 Horace Street**
File DAZ 231/2010 [c/r DAV 174006/2010D and DCU 174036/2010D]

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

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

Report date: **May 8, 2012**

COMMUNITY COMMITTEE RECOMMENDATION:

On May 7, 2012, the Riel Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommends to the Standing Policy Committee on Property and Development:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 231/2010 dated March 21, 2012 to a "C2" Commercial Community 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 following uses shall not be permitted on the land:

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h. Auto/Light Truck/Motorcycle, Repair & Service;
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vi. That for the development of any building, and/or accessory parking area and/or signage, plans shall be submitted showing the location and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, landscaping and signage to the Director of Planning, Property and Development and the Riel 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 the same to Council for all three (3) readings.

5. That the zoning section of the by-law comes into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject lands, provided that the said effective date occurs within one year from the date by-law is passed.

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

7. That the 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.

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. Approval of the Rezoning, Conditional Use and Variance Applications will legitimize the existing use of the subject property and area residents will see an improvement when the entire lot is hard-surfaced.

PUBLIC HEARING SUMMARY

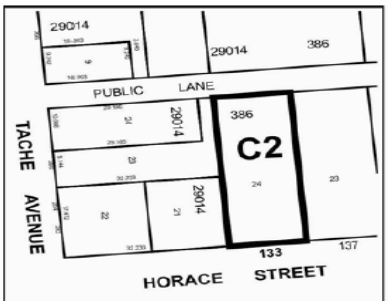
File: DAZ 231/2010 [c/r DAV 174006/2010D and DCU 174036/2010D]

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

Public Hearing: May 7, 2012
Council Chamber
Council Building, 510 Main Street

Applicant: Entreprise Saint-Boniface Inc. (Norm Gousseau)

Subject:



APPLICANT: ENTERPRISE SAINT-BONIFACE INC.
FILE: DAZ 231/10
PROPOSAL: To rezone the land shown outlined above from an "R2" RESIDENTIAL TWO-FAMILY DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to allow for the maintenance of an existing non-accessory surface parking lot. **For information, phone Mr. R. Kostiuk, Planner, at 986-7367.**
DEMANDEUR : ENTERPRISE SAINT-BONIFACE INC.
N° DE RÉFÉRENCE : DAZ 231/10
PROJET : Rezonage des sols délinéés ci-dessus de sorte qu'ils passent de la catégorie R2 (SECTEUR D'HABITATIONS BIFAMILIALES) à la catégorie C2 (SECTEUR COMMERCIAL COMMUNAUTAIRE) afin de permettre le maintien d'un terrain de stationnement de surface non contigu. **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 986-7367.**

Premises Affected: 133 Horace Street

Exhibits Filed:

1. Application dated February 6, 2012
2. Notification of Public Hearing dated February 24, 2012
3. Manitoba Status of Title 2457330/1
4. Letter of authorization dated August 3, 2012 from Enterprise Saint-Boniface Inc. (Normand Gousseau) to Taylor McCaffrey LLP (Ryan Savage)
5. Surveyor's Building Location Certificate and sketch dated May 3, 2010
6. Air Photo dated December 13, 2010
7. Site Plan dated January 31, 2012
8. Plan
9. Report from the Planning and Land Use Division dated March 21, 2012
10. Inspection Report
11. Notice of Adjournment dated April 3, 2012
12. Letter of Support from the Norwood Grove BIZ and Photographs of the subject property submitted by Norm Gousseau at the Public Hearing on May 7, 2012.
13. Audio Recording of representations of public hearing held on May7, 2012

REPRESENTATIONS:

In Support:

Norm Gousseau
Georges Bohemier

In Opposition

Nil

For the City:

Kim Raban, Land Development Engineer, Planning, Property and Development Department
Robert Kostiuk, Planner, Planning, Property and Development Department

Exhibit "9" referred to in File DAZ 231/2010

ADMINISTRATIVE REPORT

Title: DAZ 231/2010 – 133 Horace Street Public Hearing

Issue: An application for consideration at the Public Hearing for a rezoning from R2 to C2 in order to legally establish an existing non-accessory surface parking lot on the land.

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	

RECOMMENDATION

That the application to rezone the site to "C2" Commercial Community District, under File DAZ 231/2010, be rejected.

REASON FOR THE REPORT

- The applicant is proposing to rezone the site from "R2" Residential Two-Family to "C2" Commercial Community in order to legally establish an existing non-accessory surface parking lot on the land.
- 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 land will not be rezoned from R2 to C2.

HISTORY

- See the Background Section of this report.

CONSULTATION

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Date:	March 21, 2012
File No.	DAZ 231/2010

List of Schedules and Attachments

1. Appendix A – Planning Discussion
2. Schedule “A” for File No. DAZ 231/2010

APPENDIX 'A'

DATE: March 21, 2012

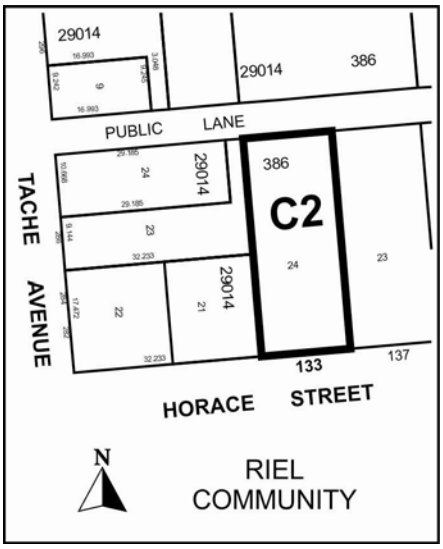
FILE: DAZ 231/10
RELATED FILES: DCU 10-174036/D, DAV 10-174006/D

COMMUNITY: Riel
NEIGHBOURHOOD #: 5.513

SUBJECT: To rezone the subject land from "R2" Residential Two-Family to "C2" Commercial Community in order to legally establish an existing non-accessory surface parking lot on the land.

LOCATION: 133 Horace Street

LEGAL DESCRIPTION: LOT 24 BLOCK 7 PLAN 386 80/1 & 88/9 ST B



APPLICANT: ENTERPRISE SAINT-BONIFACE INC. (Norm Gousseau)
614 DES MEURONS ST UNIT 140
WINNIPEG MB R2H 2P9

OWNER: ENTERPRISE SAINT-BONIFACE INC.
614 DES MEURONS ST UNIT 140
WINNIPEG MB R2H 2P9

RECOMMENDATION: Rejection

REPORT SUMMARY

- The applicant is proposing to rezone the site from “R2” Residential Two-Family to “C2” Commercial Community in order to legally establish an existing non-accessory surface parking lot on the land.
- The Urban Planning Division recommends rejecting this application.

SITE DESCRIPTION

- The subject property is located on the north side of Horace Street, just east of the Horace Street and Tache Avenue intersection in the Norwood East neighbourhood of the St. Boniface Ward.
- The site is **6,113 square feet in area.**
- The property is vacant is currently being used as a paved and gravel-surfaced, non-accessory surface parking lot. However, this parking lot was never legally established.
- The property is zoned “R2” Residential Two-Family is located within the Areas of Stability – Mature Communities Policy Area under the Complete Communities Direction Strategy.

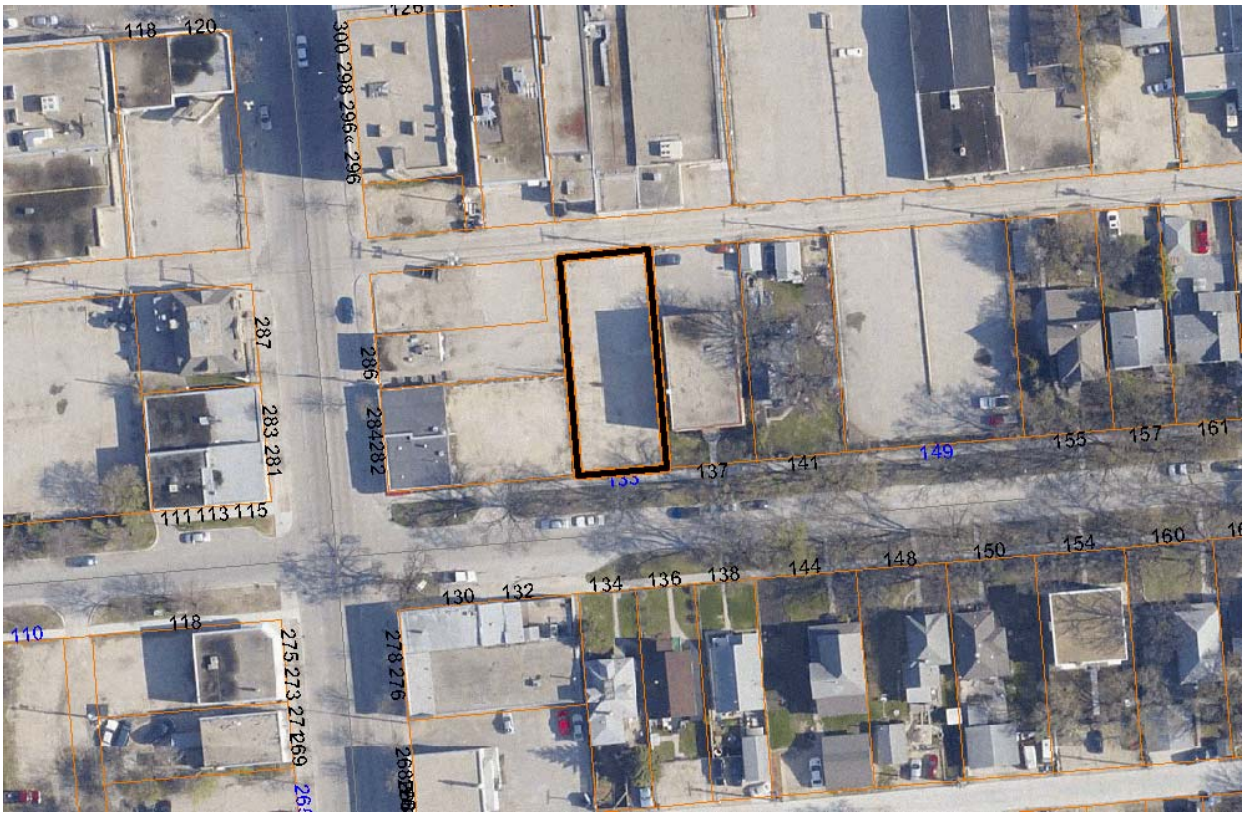


Figure 1: Aerial photograph showing approximate area of subject property and surrounding area (2009)

SURROUNDING LAND USES AND ZONING (See Figure 2)

North: Commercial developments zoned C2.

South: Detached single-family homes zoned R2.

East: A two-and-a-half storey apartment block zoned R2.

West: One storey commercial developments zoned C1.

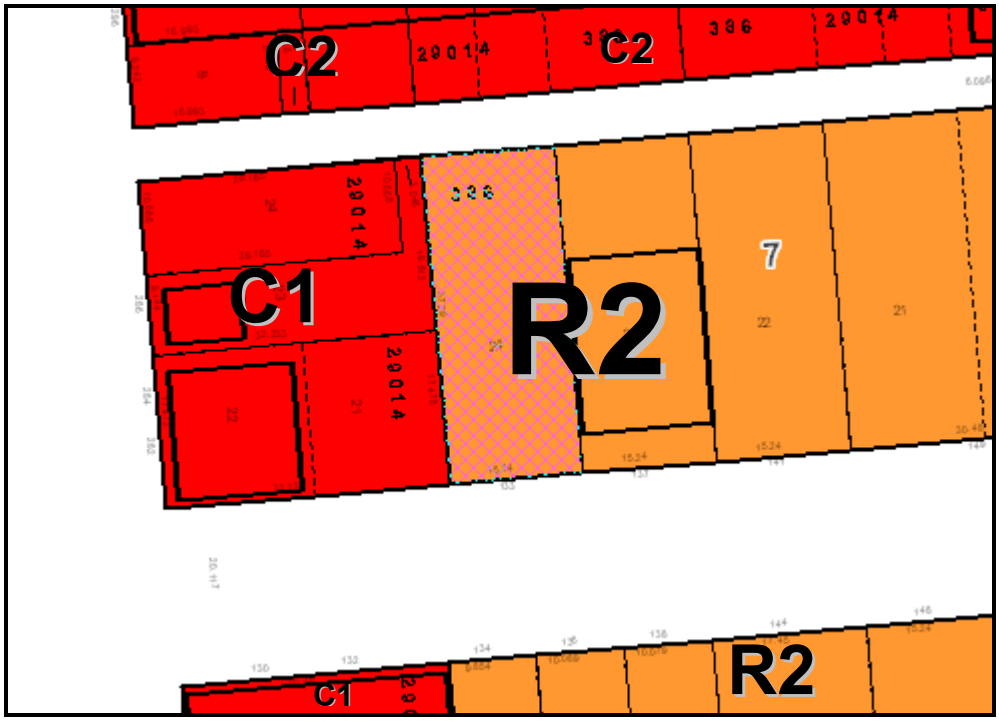


Figure 2: Zoning of the site and surrounding area.

BACKGROUND

- A detached single-family home existed on the subject site for a number of years, but was ordered to be demolished or repaired by the Existing Buildings Branch in 1999. A demolition permit for the home was taken out later that year and the house was demolished.
- The applicant purchased the subject site as well as the property at 130 Marion Street, with the understanding that 133 Horace was in fact a legally established parking lot for staff, customers, and tenants of 130 Marion Street. The applicant further claims that a portion of the subject property was used for parking for 130 Marion for a number of years even when the house existed on the property (see Figures 3 and 4). However, a non-accessory surface parking use was never legally established on the subject site.



Figure 3: 1998 Air Photo of 133 Horace Street



Figure 4: 2002 Air Photo of 133 Horace Street

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to rezone the site from "R2" Residential Two-Family to "C2" Commercial Community in order to legally establish an existing non-accessory surface parking lot on the land.
- The rezoning application also requires an associated conditional use and variance application for the establishment of the non-accessory parking lot (described in detail in the Land Use By-Law section).
- The applicant explains that the lot has been used as a non-accessory surface parking lot for a number of years and has not been an issue to the neighbourhood.
- No improvements to the site for the non-accessory parking lot are proposed.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the site 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.

- Focus housing growth to areas that have municipal service capacity to support intensification, in addition to commercial and recreational amenities.
- Support Complete Communities by ensuring diverse and high quality housing stock.
- Promote a quality public realm with a high level of accessibility to community services and amenities and opportunities for gathering and social interaction.
- 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 a mix of commercial services and employment uses that serve the local community.

ZONING

"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.

"C2" Commercial Community District

- The C2 zoning district is intended to accommodate more intensive commercial sites that do not have a local or neighbourhood orientation. The district is intended to include attractive commercial, institutional, recreational, and service facilities needed to support the surrounding neighbourhoods and the broader community. C2 districts are generally located along collector streets, at arterial/collector intersections, or along portions of arterial streets with relatively shallow lots. Non-residential structures in the C2 zone require the following dimensional standards: a minimum front, side and corner side yard of 0 feet, and a rear yard of 25 feet. The maximum building height is 49 feet and the maximum Floor Area Ratio is 3.0.

LAND USE BY-LAW

Rezoning

- The subject lot is zoned R2. Non-accessory parking is not permitted in any residential zone, but is a conditional use in the C2 zone.

Conditional Use

- Surface parking is a conditional use in the C2 zone. A conditional use application is required in conjunction with the application to rezone to C2 in order for the applicant to legally establish the existing surface parking lot use on the land.

Variances

- Commercially-zoned properties require a 10 foot wide side or rear yard when a side or rear yard of a commercially-zoned property abuts the side or rear yard of an R1 or R2-zoned property.

This yard must be landscaped in accordance with section 190 of the Zoning By-law. The subject property's east property line abuts an R2-zoned property. The applicant is not proposing to include a 10 foot wide that is landscaped in accordance with section 190 of the Zoning By-law. As such, a variance is required for these two items.

- Section 172(4)(b) of the Zoning By-Law requires that all non-accessory surface parking areas be surfaced with asphalt or concrete. Approximately half of the subject lot is surfaced with gravel; therefore, a variance is required for the gravel surfacing of the parking lot.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The subject property is located immediately south of a Community Corridor (Marion Street) and is located in a Mature Community under the Complete Communities Direction Strategy.
- There are no guiding provisions in the Complete Communities Direction Strategy that encourage sites that permit residential uses to transition to surface parking lot uses. In fact, most of the strategies guiding development in Mature Communities (cited above) refer to enabling the intensification of, most notably, residential land uses so long as the development is sensitive to the existing scale and form of the neighbourhood.
- Under its current zoning the subject lot has development rights for a new two-family home (or duplex) to be constructed on the site. The R2 zone also allows for applications for multi-family development through a conditional use. The minimum lot area per dwelling unit for a multi-family building in the R2 zone is 800 square feet. If the 6,113 square foot subject site were to be approved for a multi-family use, the maximum total units permitted would be 7.
- The existing R2 zoning is appropriate for the site when considering the site's context, which is adjacent to commercial development to the north and west, and adjacent to detached single-family residential and small-scale multi-family residential to the south and east respectively.
- The applicant is arguing that the parking lot is required to service the existing business at 130 Marion Street and other businesses along Marion Street. However, Horace Street is already dominated by surface parking lots as over 50% of the land area on the north side of Horace Street between St. Mary's Road and Kenny Street is currently used for surface parking.
- An important factor affecting the survival and enhancement of local businesses along Marion Street is people living in the neighbourhood. The existing R2 zoning of the site and its proximity to local businesses (notably on Marion and Tache) can help facilitate more people living in the neighbourhood, which in turn can help support the retention and enhancement of the neighbouring local businesses.
- The north side of Horace Street is a key transition area where smaller-scale multi-family could be built, which can help support the commercial businesses on Marion while being a compatible form of development with the lower-density residential uses on the south side of Horace.
- Improvements to the existing parking lot on the subject site, such as: paving (rather than gravel-surfacing), landscaping/screening (notably around the west, south and east sides of the parking lot), and upgraded fencing are not proposed. The site is proposed to exist as it stands with gravel-surfacing.

RECOMMENDATION

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

- The Complete Communities Direction Strategy does not encourage the transformation of buildable residential lots into surface parking lots.
- Surface parking lots do not enhance the vitality of the street/neighbourhood, and do not necessarily help neighbouring commercial properties thrive.
- The existing R2 zoning allows for adequate residential development on the site that would be compatible – in terms of scale and density – with the surrounding properties.
- The existing R2 zoning of the site and its proximity to local businesses can help facilitate more people living in the neighbourhood, which can help support the retention and enhancement of the neighbouring local businesses.
- Improvements to the existing parking lot on the subject site, such as: paving (rather than gravel-surfacing), landscaping/screening, and upgraded fencing are not proposed.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # DAZ 231/2010

Schedule "A" for File No. DAZ 231/2010, Riel Community Committee, dated March 21, 2012

By-Law No.

File No. **DAZ 231/10**

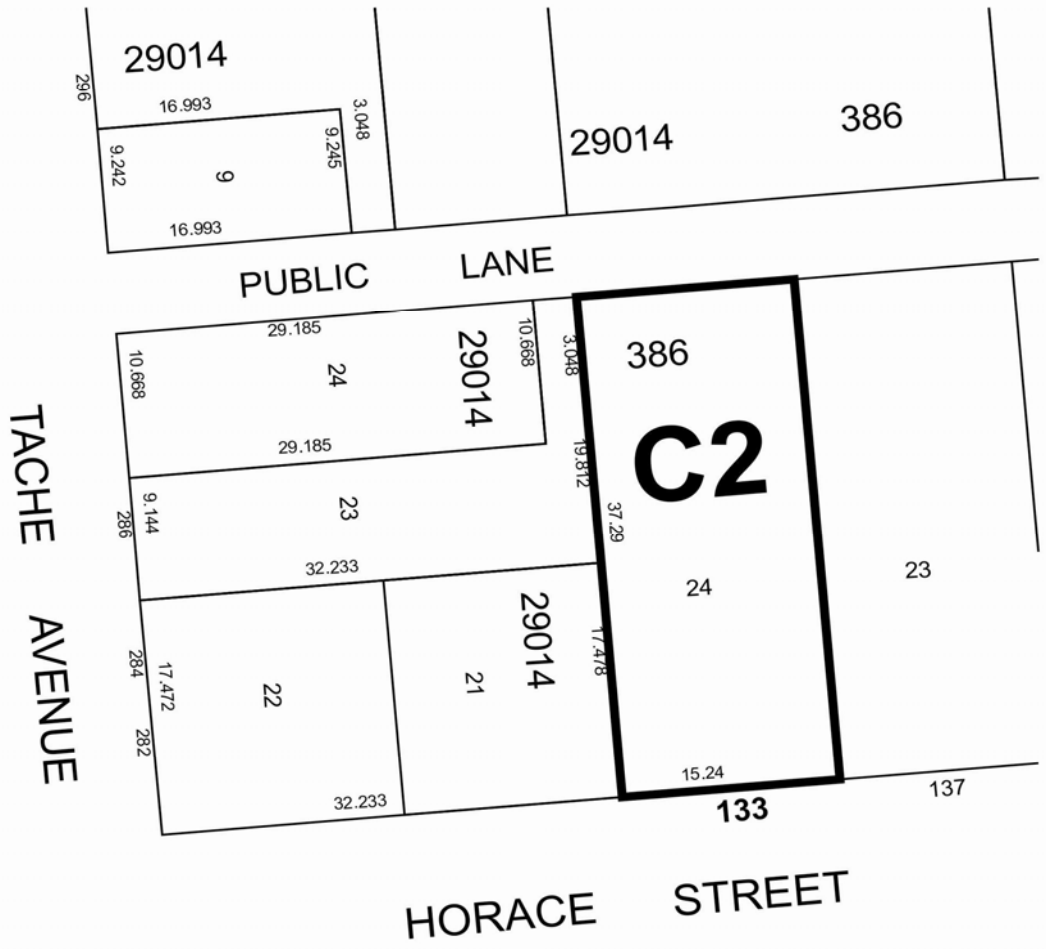
Atlas Sheet No.

N

AB26
RIEL
COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 133 Horace Street from an "R2" RESIDENTIAL TWO-FAMILY DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to allow for the maintenance of an existing non-accessory surface parking lot as shown outlined below.



THIRD READING : EFFECTIVE DATE :

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No.