**Agenda – Council – April 29, 2015**

**Report – Standing Policy Committee on Property and Development – April 14, 2015**

**Item No. 2 Rezoning – 67 Fermor Avenue**
**(St. Vital Ward)**
**File DAZ 234/2014 [DAV 168556/2014D]**

STANDING COMMITTEE RECOMMENDATION:

On April 22, 2015, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development submitted to Council that the application for rezoning under File DAZ 234/2014 be rejected.

**Report – Standing Policy Committee on Property and Development – April 14, 2015**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 22, 2015, 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 April 14, 2015, the Standing Policy Committee on Property and Development did not concur in the recommendation of the Riel Community Committee and recommended to the Executive Policy Committee and Council that the application for rezoning under File DAZ 234/2014 be rejected.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 9, 2015, the Riel Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the land as shown on Schedule "B" for File DAZ 234/2014 dated March 9, 2015 to a "C1" Commercial Neighbourhood District, subject to the following:

    A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of the City of Winnipeg Charter to provide for the following:

        i. That, the land be restricted as follows:
            a. The following uses shall not be permitted on the land:
                I. Single Room Occupancy
                II. Animal Hospital or Veterinary Clinic
                III. Kennel
                IV. Restaurant

**Report – Standing Policy Committee on Property and Development – April 14, 2015**

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

ii. That, the following signage shall not be permitted on the land:
   a. free-standing signs
   b. illuminated signs
   c. digital reader boards
   d. digital moving copy signs
   e. digital static copy signs
   f. billboard signs
   g. mobile signs
   h. inflatable signs

iii. That, no signage on the land shall exceed 2 square feet in area.

2. The Developer shall provide a cash payment representing 10% of the appraised value of the Development Application, as determined by the City.

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.

**Report – Standing Policy Committee on Property and Development – April 14, 2015**

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 February 9, 2015, the Riel Community Committee adjourned the public hearing to its meeting on March 9, 2015 at 9:00 a.m. in the Council Building, 510 Main Street, and requested the Winnipeg Public Service to investigate whether a C1 option would be viable.

**RE:** **Rezoning – 67 Fermor Avenue**
**File DAZ 234/2014 [DAV 168556/2014D]**

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

**Prepared by:** **Rochelle Viray, Assistant Committee Clerk**
**Riel Community Committee**

**Report date:** **March 11, 2015**

COMMUNITY COMMITTEE RECOMMENDATION:

On February 9, 2015, the Riel Community Committee did not concur in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development:

***1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the land as shown on Schedule "B" for File DAZ 234/2014 dated March 9, 2015 to a "C1" Commercial Neighbourhood District, subject to the following:***

***A. That the applicant enter into a zoning agreement with the City of Winnipeg pursuant to Subsection 240(1) of the City of Winnipeg Charter to provide for the following:***

***i. That, the land be restricted as follows:***
***a. The following uses shall not be permitted on the land:***
***I. Single Room Occupancy***
***II. Animal Hospital or Veterinary Clinic***
***III. Kennel***
***IV. Restaurant***

***ii. That, the following signage shall not be permitted on the land:***
***a. free-standing signs***
***b. illuminated signs***
***c. digital reader boards***
***d. digital moving copy signs***
***e. digital static copy signs***
***f. billboard signs***
***g. mobile signs***
***h. inflatable signs***

***iii. That, no signage on the land shall exceed 2 square feet in area.***

***2. The Developer shall provide a cash payment representing 10% of the appraised value of the Development Application, as determined by the City.***

***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 reasons for its recommendation:

1. Good work by the Winnipeg Public Service raising its concerns; however given the explanation of the nature of the work, it is spot specific zoning, and is limiting to C1.

2. It is on Fermor Avenue, facing a major artery, so it is not seen as fundamentally residential in character.

## PUBLIC HEARING SUMMARY

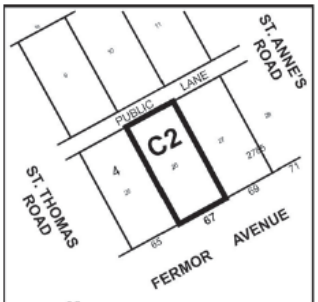
File: DAZ 234/2014

Before: Riel Community Committee
Councillor Mayes, Chairperson
Councillor Allard
Councillor Lukes

Public Hearing: March 9, 2015
February 9, 2015
Council Building, 510 Main Street

Applicant: Nicole Beauchesne

Subject:




RIEL COMMUNITY

**APPLICANT :** NICOLE BEAUCHESNE
**FILE :** DAZ 234/14
**PROPOSAL:** To rezone the land shown outlined above from an "R1-M" RESIDENTIAL SINGLE-FAMILY (MEDIUM) DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to facilitate the conversion of an existing single family dwelling to allow for the establishment of a personal service (counselling clinic) use. **For information, phone Mr. R. Kostiuk, Planner, at 204-986-7367.**
**DEMANDEUR :** NICOLE BEAUCHESNE
**N° DE RÉFÉRENCE :** DAZ 234/14
**PROJET :** Rezoner le bien-fonds indiqué ci-dessus en le faisant passer de la catégorie R1-M (secteur d'habitations unifamiliales moyennes) à la catégorie C2 (secteur commercial) en vue de faciliter la conversion d'une habitation unifamiliale existante et de permettre l'établissement d'un service personnel (clinique de counseling). **Pour plus de renseignements, veuillez communiquer avec M. R. Kostiuk, urbaniste, au 204-986-7367.**

Premises Affected: 67 Fermor Avenue

Exhibits Filed:

1. Application dated November 18, 2014
2. Notification of Public Hearing dated December 4, 2014
3. Manitoba Status of Title 2695156/1
4. Letter of authorization dated October 20, 2014 from Nicole Beauchesne to Nicole Beauchesne
5. Surveyor's Building Location Certificate and sketch dated February 19, 2014
6. Plans (2 pages)
7. Report from the Urban Planning Division dated January 26, 2015
8. Inspection Report
9. Photograph submitted by Nicole Beauchesne and Jeff Daly at the Public Hearing
10. Audio Recording of representations
11. Notice of Adjournment dated February 10, 2015
12. Revised Report from the Urban Planning Division dated March 2, 2015
13. Schedule "B" for File DAZ 234/2014 dated March 9, 2015
14. Audio Recording of representations of public hearing held on Mach 9, 2015

REPRESENTATIONS:

In Support:

Nicole Beauchesne
Jeff Daly

In Opposition

Brad Gould

For Information:

Nil

For the City:

Mr. G. Jasper, Land Development Administrator, Planning, Property and Development Department
Mr. R. Kostiuk, Planner, Planning, Property and Development Department
Mrs. E. Finnigan, Planner, Planning, Property and Development Department

Exhibit "12" referred to in File DAZ 234/2014

# ADMINISTRATIVE REPORT

**Title:** DAZ 234/2014 – 67 Fermor Avenue Public Hearing

**Issue:** An application for consideration at the Public Hearing for a rezoning from R1-M to C2.

**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 |
|---|---|---|---|
| B. Smith | N/A | N/A | |

## RECOMMENDATIONS

That the application to rezone the site to "C2" Commercial Community District, under File DAZ 234/2014, be rejected.

## REASON FOR THE REPORT

- The applicant is proposing to rezone the site from R1-M to C2 in order to establish a counselling clinic on the property.
- 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 R1-M to C2.

## HISTORY

- On February 9, 2015, the Riel Community Committee adjourned the subject application to have the Public Service investigate whether a C1 option for the site would be viable. An update is provided in Appendix 'A'.

## CONSULTATION

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

## SUBMITTED BY

| | |
|---|---|
| Department | Planning, Property and Development |
| Division | Urban Planning |
| Prepared By: | Robert Kostiuk, MCIP |
| Date: | *REVISED March 2, 2015* |
| File No. | DAZ 234/2014 |

**List of Schedules and Attachments**

1. Appendix A – Planning Discussion
2. Schedule "A" for File No. DAZ 234/2014

**APPENDIX 'A'**

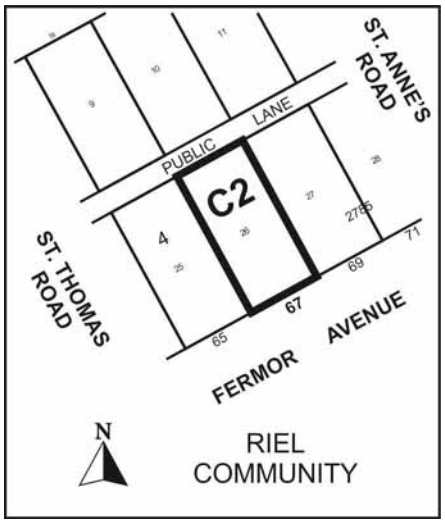
**DATE:** **REVISED March 2, 2015**

**FILE:** DAZ 234/2014
**RELATED FILES:** DAV 14-168556/D (c/r)

**COMMUNITY:** Riel
**NEIGHBOURHOOD #:** 5.516

**SUBJECT:** To rezone the subject land from R1-M to C2 in order to establish a commercial use (counselling clinic) on the property.

**LOCATION:** 67 Fermor Avenue
**LEGAL DESCRIPTION:** Lot 26 Block 4 Plan 2785




**APPLICANT:** NICOLE BEAUCHESNE
55 GLENTHORNE CRES
WINNIPEG MB R2M 4C8

**OWNER:** NICOLE BEAUCHESNE
55 GLENTHORNE CRES
WINNIPEG MB R2M 4C8

**RECOMMENDATION:** Rejection

**SITE DESCRIPTION**

- The subject property is located on the north side of Fermor Avenue, between St. Thomas Road and St. Anne's Road in the Varennes neighbourhood of the St. Vital Ward.
- The site is **5,178 square feet in area** and contains a one storey home with a detached garage.
- The property is located within the Areas of Stability – Mature Communities policy area and located along a Community Mixed Use Corridor under the Complete Communities Direction Strategy. The site is zoned "R1-M" Residential Single-Family Medium.




**Figure 1: Aerial photograph of subject property and surrounding area (2014)**

**SURROUNDING LAND USES & ZONING (See Figure 2)**

**North:** Detached single-family homes zoned R1-M.

**South:** Fermor Avenue and then detached single-family homes zoned R1-M.

**East:** Detached single-family homes zoned R1-M.

**West:** Detached single-family homes zoned R1-M.

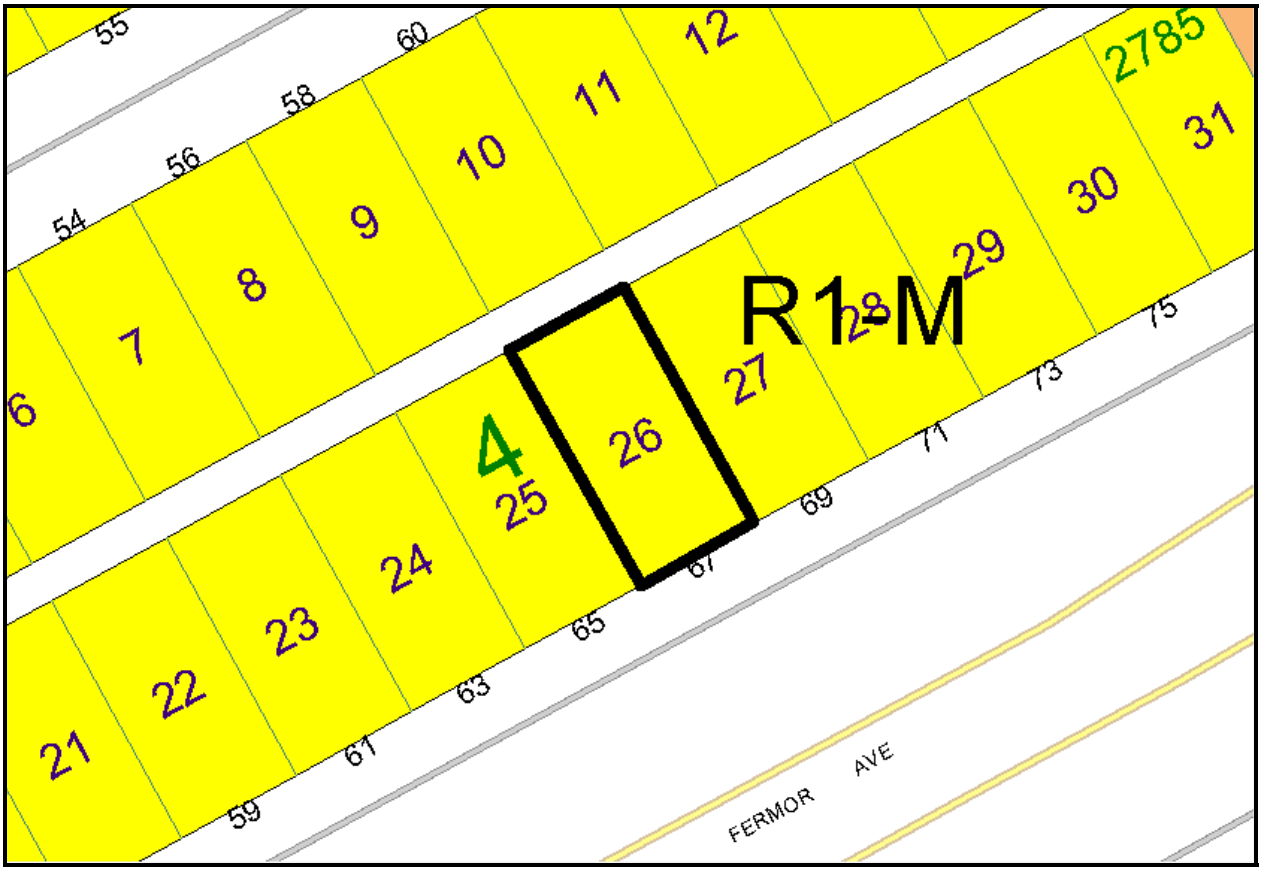



**Figure 2: Zoning of the site and surrounding area.**

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to rezone the site from R1-M to C2 in order to establish a counselling clinic on the property.
- The applicant states that the business to be established on the property is an occupation health practice. Assessments of clients would occur off-site at clients' homes or work environments. Therefore clients are not seen in the office space. The office would predominantly be used by the applicant and office manager (Monday – Friday from 8:30 to 4:30). All of the associates have their own home offices. The office space would also be used to store files and equipment, which the associates could retrieve as necessary.
- No additions or substantial changes to the existing building/site are proposed. Most of the changes will occur within the existing home on the property.
- An associated variance is required for the proposed change of use under DAV 14-168556/D.

**ANALYSIS AND ISSUES**

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is within the Areas of Stability – Mature Communities policy area. Key policies guiding the development of 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.
    - Promote the form of buildings and spaces that are sensitive to the community context and that address the transition between new and existing development.
    - 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.
- The site is also considered to be located along a Community Mixed Use Corridor (Fermor Ave.) under the Complete Communities Direction Strategy. Key policies guiding the development of Community Mixed Use Corridors include:
    - Promote the enhancement of existing Community Mixed Use Corridors through moderate intensification.
    - Promote small-scale, fine grained development that is responsive to the surrounding community context.

ZONING

*"R1-M" Residential Single-Family Medium District*

- The R1-M district requires: a minimum lot width of 25 feet, a minimum lot area of 3,500 square feet, side yards of 4 feet, a front yard of 15 feet, and a rear yard of 25 feet. The maximum building height is 35 feet and the maximum lot coverage is 45%.

*"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.

LAND USE BY-LAW

*Rezoning (DAZ 234/2014)*

- The applicant is proposing to rezone the land from R1-M to C2 in order to establish a commercial use (counselling clinic) on the site. Commercial uses, such as counselling clinics, are not permitted in the R1-M zone, but are permitted in the C2 zoning district.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- Although there are some policies under Areas of Stability and Community Mixed Use Corridors that may help support the subject application, the most notable aspect to take into consideration when evaluating the proposal is the immediate surrounding context of the subject application, which is made-up exclusively of detached single-family homes. There are no commercially-designated properties within the subject block or neighbouring block to the west. However, the surrounding neighbourhood is supported by commercial developments along St. Anne's and St. Mary's Road, both of which are designated as Regional Mixed Use Corridors.
- Direction 2 for Commercial Areas within the Complete Communities Direction Strategy states the following:

  *Manage Commercial Growth in a Sustainable, Orderly Fashion.*

  - *Encourage the redevelopment, infill and expansion of existing commercial areas as the preferred method of accommodating new commercial development.*
- While Fermor Avenue certainly has areas of commercial development, these areas are not found within the immediate vicinity of the subject site and therefore the subject rezoning can not be supported.
- The Public Service has supported modest intensification along Fermor Avenue near the subject site under development applications DASZ 2/2011 (79 Fermor Ave) and DAZ 239/2012 (25 Fermor Ave). Both of those applications were rezonings from R1-M to R2 in order to develop duplexes, which were seen as modest intensification and compatible with the surrounding context. Specifically, the applications were supported on the basis that they were residential in nature (like the surrounding context) and proposals to move one step up from the predominant zoning of the surrounding properties (from R1 to R2).
- Introducing a C2-zoned site to the area can not be seen as modest intensification as the rights associated with the C2 zoning district are simply not in keeping with the surrounding context.
- The applicant contacted the Public Service to gauge supported for the commercial rezoning. The Public Service indicated that such a proposal for a commercial rezoning would not be administratively supported, but that the applicant had the right to submit an application.

UPDATE – IMPLICATIONS OF REZONING TO C1

- On February 9, 2015, the Riel Community Committee adjourned the subject application to have the Public Service investigate whether a C1 option for the site would be viable. This request has been reviewed with the following information provided.

*If C1 is recommended, this will mean that:*

1. *The detached garage must be demolished since a parking structure is not allowed as an accessory use under C1. They then must provide outdoor surface parking. Removing the garage also eliminates the side and rear variances that they applied under the proposed C2 zoning.*
2. *The clinic is limited to a total floor area of 1500 sq ft in C1. Since the total floor area is only 1359 sq ft, they comply with the use specific standard and won't require a conditional use.*

*If C1 gets approved, the applicants will have to reapply for their variances which include the following:*

*1) for the establishment of a counselling clinic to permit:*

*a) the maintenance of a 5.5 foot (1.68 metre) high continuous fence buffer on the east side instead of a fence buffer having a horizontal length of 48 feet (14.63 metres) followed by a landscaped strip of 16 feet (4.88 metres);*

*b) no accessible parking spaces;*

**c) no west side yard to the garbage enclosure instead of 10 feet (3.0 metres);*

*2) for the establishment of an accessory parking area to permit:*

*a) no buffering of parking at the rear adjacent to a residential zoning district;*

*b) parking directly off a lane instead of an aisle or driveway.*

**c) no west side yard instead of 10 feet (3.0 metres);*

**d) no east side yard instead of 10 feet (3.0 metres).*

**These variances may be required as per note b under Table 5-5 which says that if a side or rear lot line of a commercial zoning district abuts an R1 or R2 district, a yard of 10 ft must be provided along the side or rear of the commercial lot and cannot be used for parking, loading, storage or any other commercial activities. If they do manage to provide 10 ft yards to the parking and garbage enclosure, then these variances aren't required and they have room to provide 2 parking spaces plus an area reserved for the garbage enclosure and bike rack. If they don't provide the 10 ft yards, then they have room for 4 parking spaces and an area for the garbage enclosure and bike rack.*

- If changes are not made to the site plan, then all of the variances mentioned above would apply.
- It should be noted that an occupancy permit can not be issued until the variances above are addressed (if the site is rezoned to C1).
- If the Committee chooses to rezone the site to C1, but has concerns about the potential uses on the site, then they can recommend restricting the uses through a zoning agreement. Some uses to consider restricting that are likely to be incompatible, include:

  Single Room Occupancy

Animal Hospital or Veterinary Clinic

Kennel

Restaurant

Personal Services

Retail Sales

- Signage may also be considered to be restricted in a manner consistent with signage regulations in the R1 or R2 zones.
- The Urban Planning Division is not supportive of the spot rezoning to C1 or C2 even with a zoning agreement under either zoning designation. As previously stated, Fermor Avenue has areas of commercial development. However, these areas are not found within the immediate vicinity of the subject site and therefore the subject rezoning to C1 or C2 can not be supported.

**RECOMMENDATION**

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

- The application is not in keeping with the Complete Communities Direction Strategy as the proposed rezoning to C2 or C1 can not be deemed as moderate intensification considering the surrounding context of the site.
- The applicant is proposing a mid-block rezoning to C2 (or potentially C1), where all of the surrounding properties are zoned R1-M.

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

Report Prepared By: Robert Kostiuk, MCIP
PPD File # DAZ 234/2014

**Schedule "A" for File No. DAZ 234/2014, Riel Community Committee, dated February 2, 2015**

By-Law No. _____

File No. **DAZ 234/14**

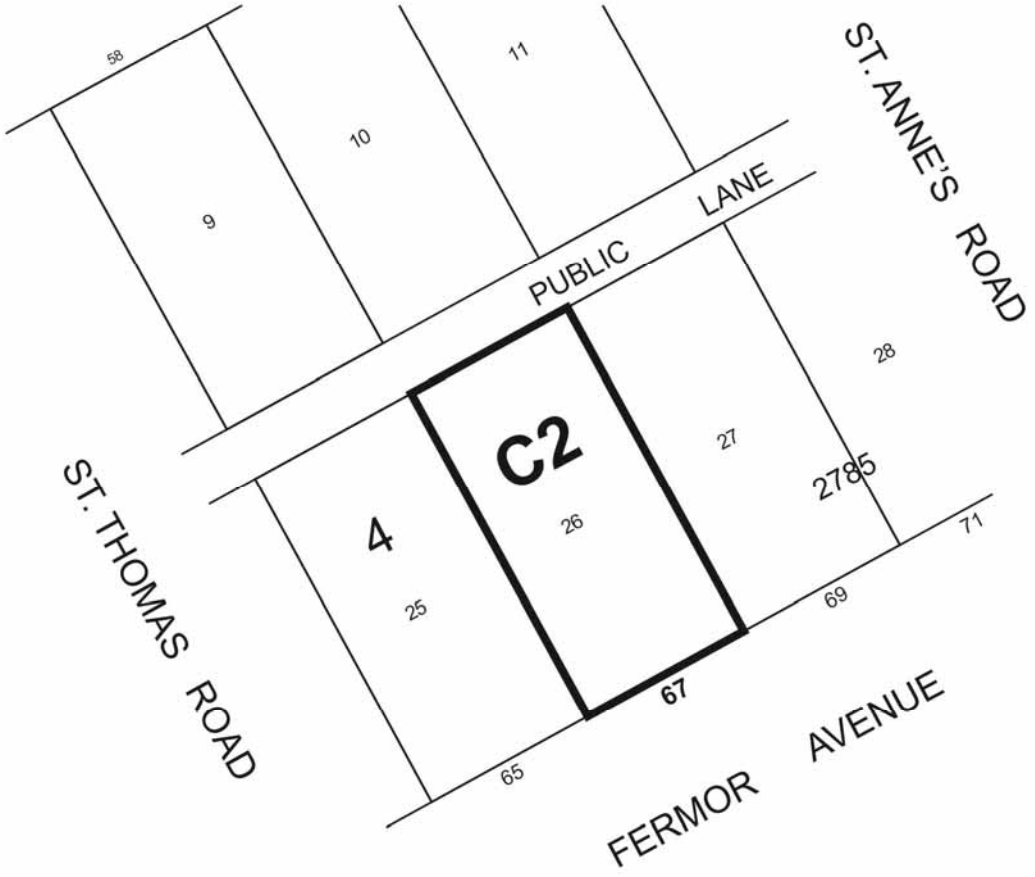
Atlas Sheet No.

N

**AE27**
**RIEL**
**COMMUNITY**

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 67 Fermor Avenue from an "R1-M" RESIDENTIAL SINGLE-FAMILY (MEDIUM) DISTRICT to a "C2" COMMERCIAL COMMUNITY DISTRICT to facilitate the conversion of an existing single family dwelling to allow for the establishment of a personal service (counselling clinic) use as shown outlined below.




THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____

**Schedule "B" for File No. DAZ 234/2014, Riel Community Committee, dated March 9, 2015**

By-Law No. _____

File No. **DAZ 234/14**

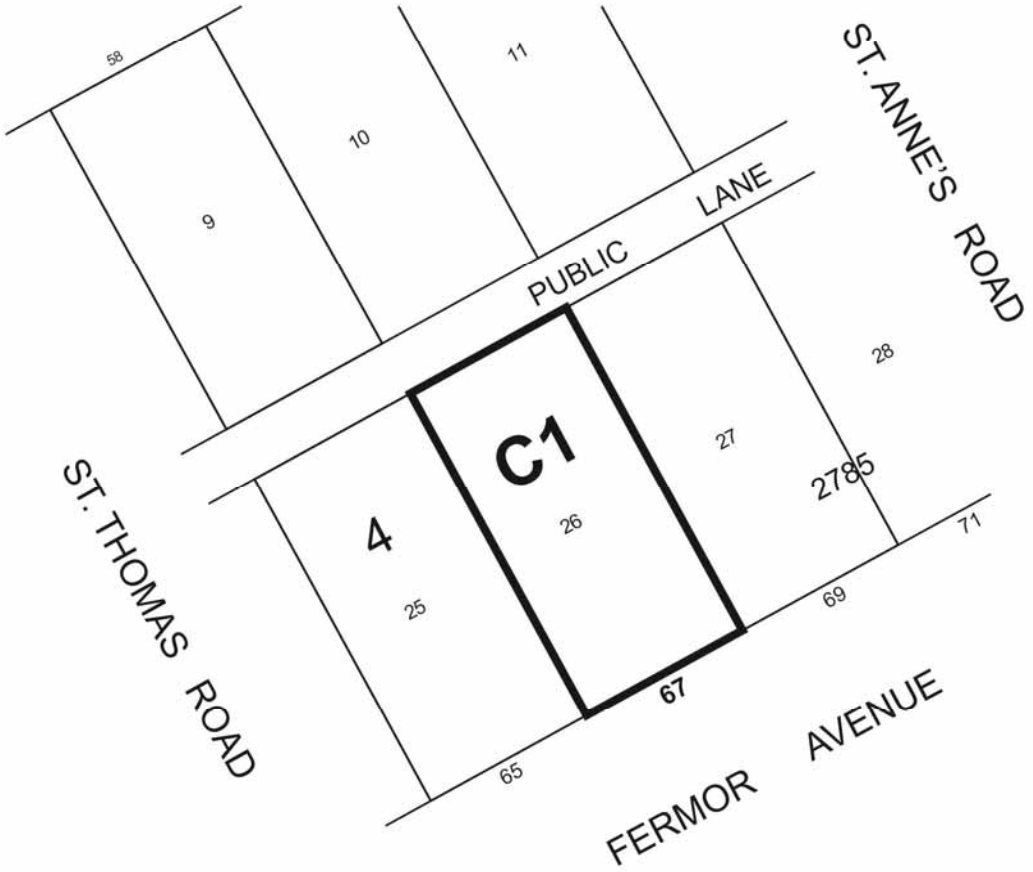
Atlas Sheet No.

N

**AE27**
**RIEL**
**COMMUNITY**

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 67 Fermor Avenue from an "R1-M" RESIDENTIAL SINGLE-FAMILY (MEDIUM) DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to facilitate the conversion of an existing single family dwelling to allow for the establishment of a personal service (counselling clinic) use as shown outlined below.




THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____