Agenda - Executive Policy Committee - July 20, 2005

Report - Standing Policy Committee on Property and Development - July 18, 2005

Item No. 14 Rezoning - 135 Bannerman Avenue
File DAZ 228/2005

STANDING COMMITTEE RECOMMENDATION:

On July 18, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation from the Lord Selkirk-West Kildonan Community Committee and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 228/2005 dated June 30, 2005, to an "RM-L" Multiple Family District.

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 the 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 City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

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

6. 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.

Agenda - Executive Policy Committee - July 20, 2005

Report - Standing Policy Committee on Property and Development - July 18, 2005

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On July 18, 2005, the Standing Policy Committee on Property and Development concurred in the recommendation from the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 12, 2005, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and submitted its recommendation to the Standing Policy Committee on Property and Development.

RE: **Rezoning - 135 Bannerman Avenue**
File DAZ 228/2005 [c/r DAV 137114/2005D and DCU 131773/2005D]

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

Prepared by: **Diane Timmins, Clerk,**
Lord Selkirk-West Kildonan Community Committee

Report date: **July 13, 2005**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 12, 2005, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development:

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 228/2005 dated June 30, 2005, to an "RM-L" Multiple Family District.

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 the 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 City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

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

6. 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.

The Lord Selkirk-West Kildonan Community Committee provided the following supporting reason for its recommendation:

1. The Lord Selkirk-West Kildonan Community Committee agreed with the administrative comments contained in the report from the Manager of Planning and Land Use dated June 30, 2005.

PUBLIC HEARING SUMMARY

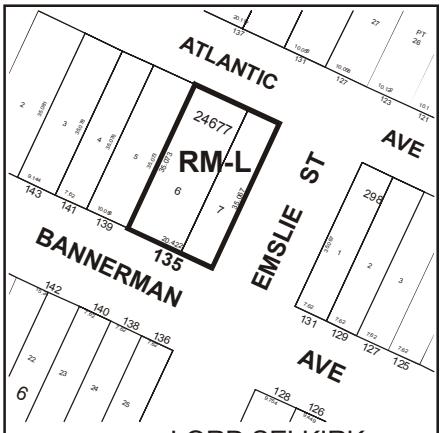
File: DAZ 228/2005
[c/r DAV 137114/2005D and DCU 131773/2005D]

Before: Lord Selkirk-West Kildonan Community Committee
Councillor Pagtakhan, Chairperson
Councillor Lazarenko
Councillor O'Shaughnessy

Public Hearing: July 12, 2005
West Committee Room, Council Building
510 Main Street

Applicant: Lady Bannerman Residential Care Facility
(Valerie Wylychenko)

Subject:



Premises Affected: 135 Bannerman Avenue

Exhibits Filed:
1. Application dated May 20, 2005
2. Notification of Public Hearing dated June 2, 2005
3. Manitoba Status of Title 2011904

4. Surveyor's Building Location Certificate and sketch dated May 6, 2005
5. Letter of authorization dated May 19, 2005 from Boris Peter Wessner
6. Plan dated May 2005
7. Floor Plans (5 pages) dated September 2004 and May 2005
8. Photographs of the subject property (3 pages)
9. Report from the Manager of Planning and Land Use dated June 30, 2005
10. Inspection Report

REPRESENTATIONS:

In Support:

Peter Wessner
Valerie Wylychenko

In Opposition

Nil

For Information:

Nil

For the City:

Mr. M. Robinson, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

Peter Wessner and Valerie Wylychenko appeared in support of the application and indicated concurrence in the recommendations outlined in the report of the Manager of Planning and Land Use dated June 30, 2005 (Exhibit "9").

Exhibit "9" referred to in File DAZ 228/2005 [c/r DAV 137114/2005D and DCU 131773/2005D]

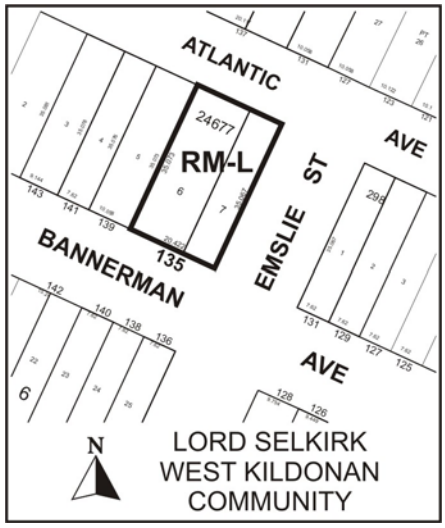
Winnipeg

Planning, Property and Development Department Report

To the Lord Selkirk – West Kildonan Community Committee

Date: **June 30, 2005**
File: **DAZ 228/2005**
Related Files: **DCU 131773/2005D, DAV 137114/2005D**
Subject: **An application has been received from Valerie Wylychenko for a zoning change to Zoning By-Law No. 6400/94 by rezoning the subject property from an "R2" Two-Family Residential District to a "RM-L" Multiple Family Residential District to allow for the creation of an assisted living facility.**

Location: **At the intersection of Bannerman Avenue and Emslie Street in the Luxton neighbourhood of the Mynarski Ward**



Applicant: **Valerie Wylychenko**
Owner: **Peter Wessner**

Recommendation: **Approved**

Report Summary:

- Proposal to rezone a site with an existing apartment building from "R2" Two-Family Residential to "RM-L" Multi-Family Residential to allow for an assisted living facility.
- Proposal meets Plan Winnipeg policies which allow for a variety of residential uses in the Neighbourhood Policy Area
- The proposed use will be organized and controlled, as a result of the facility being managed 24 hours a day

Site Description

The subject site, which has a 2 ½ story, 12 unit apartment building, is zoned "R2" Two-Family Residential. The total site is 7,806 square feet.

North: Residences zoned "R2" Two-Family Residential
South: Residences zoned "R2" Two-Family Residential
East: Residences zoned "R2" Two-Family Residential
West: Residences zoned "R2" Two-Family Residential

Background

The building structure is circa 1966 and is of solid brick and block construction. It is considered non-conforming because it was established prior to By-law 6400/94, which prohibits the establishment of multi-family dwellings in the "R2" Two-Family District.

Description of the Proposed Development

The applicant is the owner of the Lady Bannerman Apartment building at 135 Bannerman Avenue, at the corner of Bannerman and Emslie Streets. He requires a rezoning to "RM-L" Multiple Family District, a conditional use, and variances (see associated reports for DCU 05-131773D & DAV 05-137114D) in order to convert the existing apartment building into an assisted living facility, providing housing for 27 residents.

The facility will be permanently staffed with 3 employees, 2 full time and 1 permanent part time. It will be supervised by an attendant manager 24 hours a day, 7 days per week and will operate as a licensed residential care facility under the Social Services Administration Act and be licensed by the Residential Care Facilities Licensing Branch of Manitoba.

Analysis

Plan Winnipeg

The subject parcel falls within a designated Neighbourhood Policy Area under Plan Winnipeg, which allows for a variety of residential, commercial, institutional, and mixed uses; thus, the proposed rezoning is in conformance with Plan Winnipeg 2020.

Use
The Planning and Land Use Division believes that the proposed use is compatible with the surrounding neighbourhood and community. It will be organized and controlled, as a result of the facility being managed 24 hours a day and will not significantly increase the intensity of use of the property.

Public Consultation
The applicant has indicated that he has contacted residents in the immediate area to discuss his plans, and in general, they are very supportive.

Zoning
The apartment building is currently a non-conforming use. By-law 6400/94 says the following about non-conforming uses:

> **Section 180(2)**
> "The intent of this By-law is to permit a non-conformity to continue until it is removed but not to encourage its survival."
>
> **Section 180(5)**
> "Except as provided herein, a non-conformity shall not be enlarged or extended, or be used as a basis for adding other structures or uses prohibited in the district in which it is located."

Its current classification is the result of a blanket rezoning of the area, which took place in 1986, and which reflected the general character of the area but did not account for individual irregularities, such as this apartment building.

In some cases, non-conforming uses are quite noxious and incompatible with the surrounding area. In those cases, it is generally advantageous to encourage the eventual discontinuation of those uses. However, in this case, the subject building is well maintained, in character with the area, compatible with adjacent properties, and has coexisted with the neighbourhood for almost 40 years. In that vein, the Planning and Land Use Division supports its conversion into an assisted living facility.

It should also be noted that within the "RM-L" District, the overall height is restricted to 30 feet, which is the height of a typical single-family residence.

Other Issues
Parking
It is anticipated that parking demand will be reduced because residents are not expected to own vehicles

Recommendation

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

- There is a growing demand for assisted living facilities in Winnipeg;
- The applicant has submitted a detailed staffing and security plan;
- The proposed use will be supervised 24 hours a day;
- The proposed use is compatible with the area in scale and in the nature and intensity of the use;
- The proposed use is not anticipated to have any adverse impact on the adjacent area.

Recommended Conditions of Approval

I. That The Winnipeg Zoning By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 228/2005, attached hereto and dated, June 30, 2005, to a "RM-L" Multiple Family District.

II. That a ten per cent (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 the market value of the land.

III. 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.

IV. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

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

VI. 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: Michael Robinson, AICP
PPD File # 3.305

6674

Schedule "A"

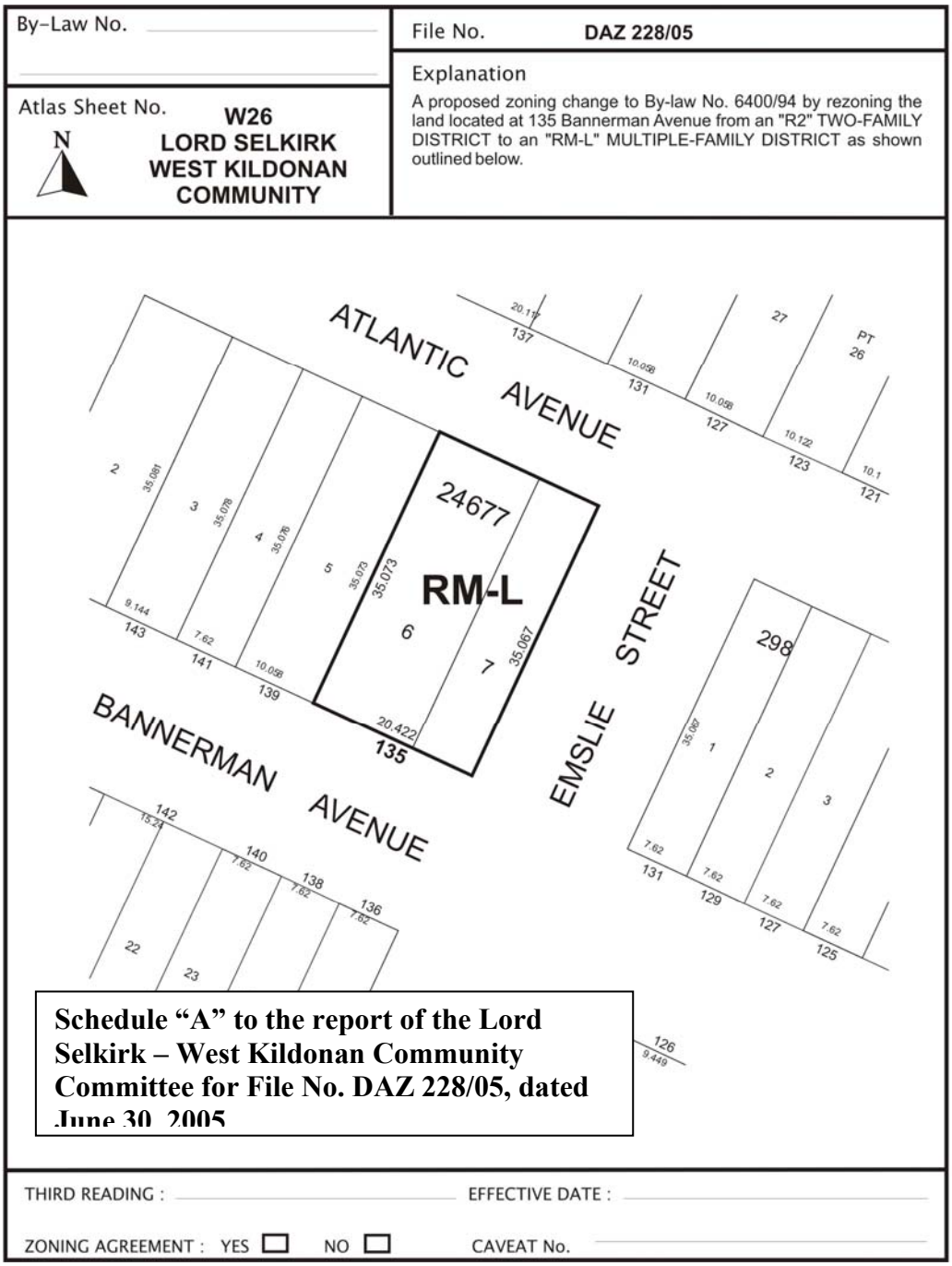

By-Law No.
File No. DAZ 228/05
Explanation
A proposed zoning change to By-law No. 6400/94 by rezoning the land located at 135 Bannerman Avenue from an "R2" TWO-FAMILY DISTRICT to an "RM-L" MULTIPLE-FAMILY DISTRICT as shown outlined below.
Atlas Sheet No. W26
N
LORD SELKIRK
WEST KILDONAN
COMMUNITY
ATLANTIC AVENUE
BANNERMAN AVENUE
EMSLIE STREET
24677
RM-L
135
137
131
127
123
121
143
141
139
142
140
138
136
298
129
125
Schedule "A" to the report of the Lord Selkirk – West Kildonan Community Committee for File No. DAZ 228/05, dated June 30, 2005
THIRD READING :
EFFECTIVE DATE :
ZONING AGREEMENT : YES NO
CAVEAT No.



Figure 1: Aerial Photo (Flown