Minute No. 644
Report - Standing Policy Committee on Property and Development – September 7, 2004

Item No. 14 Rezoning - 256 Benn Avenue
File DAZ 216/2004

COUNCIL DECISION:

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

1. That The Winnipeg Zoning By-law No. 6400/94 be amended by rezoning the subject land as outlined on Schedule "A" for File DAZ 216/2004 dated April 30, 2004, to a "RM-1" Multiple Family District, subject to the following:

    A. That the Developer be required to enter into Servicing Agreement AG 216/04 with the City containing all of the conditions outlined in the report of the Administrative Coordinating Group dated May 4, 2004, with the following amendment:

        i. That clause 1 be deleted in its entirety and the remaining clauses renumbered accordingly.

    B. 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 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 and landscaping to the Lord Selkirk - West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit and maintained thereafter to the satisfaction of the Director of Planning, Property and Development.

        ii. That the multiple-family dwelling contain a maximum of six (6) units.

2. That the Developer transfer to the City and legally open, at no cost to the City, property required for the 2.743 metre (9.00 foot) widening to the Main Street right-of-way along the full length of the subject property abutting Main Street.

3. 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.

Report - Standing Policy Committee on Property and Development - September 7, 2004

COUNCIL DECISION (continued)

4. 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.

5. 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.

6. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

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

8. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report - Standing Policy Committee on Property and Development - September 7, 2004

DECISION MAKING HISTORY:

Moved by Councillor Pagtakhan,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 22, 2004, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 7, 2004, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 6, 2004, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation with the following amendments:

Administrative Coordinating Group Report

- That clause 1 be deleted in its entirety and the remaining clauses renumbered accordingly

Report of the Manager of Planning and Land Use

- That the following new clause ii. be added to clause 1B:

    ii. That the multiple-family dwelling contain a maximum of six (6) units.

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

RE: **Rezoning - 256 Benn Avenue**
File DAZ 216/2004

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 23, 2004**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 6, 2004, the Lord Selkirk-West Kildonan Community Committee concurred in the administrative recommendation, as amended, 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 outlined on Schedule "A" for File DAZ 216/2004 dated April 30, 2004, to an "RM-1" Multiple Family District, subject to the following:

    A. That the Developer be required to enter into Servicing Agreement AG 216/04 with the City containing all of the conditions outlined in the report of the Administrative Coordinating Group dated May 4, 2004, ***with the following amendment:***

        i. That clause 1 be deleted in its entirety and the remaining clauses renumbered accordingly.

    B. 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:

        ii. That 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 and landscaping to the Lord Selkirk - West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit and maintained thereafter to the satisfaction of the Director of Planning, Property and Development.

        ii. That the multiple-family dwelling contain a maximum of six (6) units.

2. That the Developer transfer to the City and legally open, at no cost to the City, property required for the 2.743 metre (9.00 foot) widening to the Main Street right-of-way along the full length of the subject property abutting Main Street.

3. 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.

4. 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.

5. 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.

6. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

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

8. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Note: The wording in bold and italics denotes amendments made by the Community Committee.

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

1. The Lord Selkirk-West Kildonan Community Committee agreed with the administrative comments contained in the report of the Manager of Planning and Land Use dated April 30, 2004.

2. The Lord Selkirk-West Kildonan Community Committee is of the view the Developer should not be required to pay for its share of the cost of concrete pavement, concrete sidewalk, street lighting and boulevard improvements to be installed by the City in Main Street inasmuch as the subject property is on Benn Avenue with flankage on Main Street, and the concrete pavement has already been installed on Main Street.

PUBLIC HEARING SUMMARY

File: File DAZ 216/2004

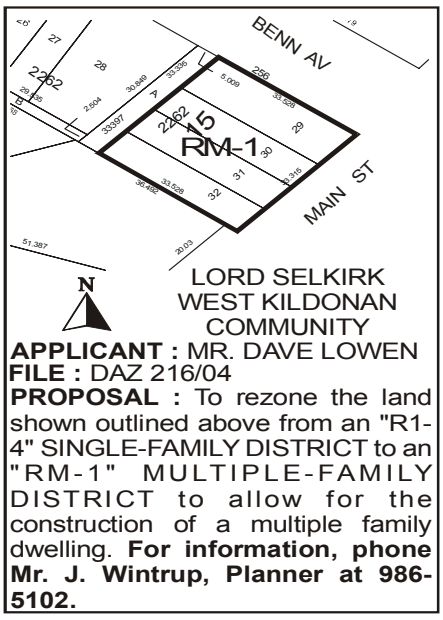
Before: Lord Selkirk-West Kildonan Community Committee
Councillor Pagtakhan, Chairperson
Councillor Lazarenko
Councillor O'Shaughnessy

Public Hearing: July 6, 2004
Council Chamber, Council Building
510 Main Street

Adjourned from: May 18, 2004

Applicant: Dave Lowen

Subject:



Premises Affected: 256 Benn Avenue

Exhibits Filed:

1. Application dated March 22, 2004
2. Notification of Public Hearing dated April 21, 2004
3. Manitoba Status of Title 1737881
4. Surveyor's Staking Certificate and sketch dated October 20, 2000

5. Letter of authorization from Darryl Kuzenko to Dave Lowen
6. Extract of Atlas Sheet R29
7. Plans (2 pages)
8. Report from the Manager of Planning and Land Use dated April 30, 2004
9. Report from the Administrative Coordinating Group dated May 4, 2004
10. Inspection Report
11. Communication dated May 21, 2004 from Dario Palleva, the property owner of 264 Benn Avenue, in support of the proposed development of the subject property

REPRESENTATIONS:

In Support:

Cam Cornelsen
Dave Lowen
Arnie Moss
Dario Palleva

In Opposition:

Nil

For the City:

Mr. E. Carriere, Land Development Engineer, Planning, Property and Development Department
Mr. C. Torpey, Land Development Administrator, Planning, Property and Development Department
Mr. D. Marsh, Planner, Planning, Property and Development Department
Mr. J. Wintrup, Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

May 18, 2004
Arnie Moss appeared in support of the application and provided Committee with an overview of the proposed multiple-family development and stated the opinion it will be an enhancement to the area. Mr. Ross stated concurrence in the recommendations outlined in the administrative reports with the exception of recommendation numbered 1 contained in the report of the Administrative Coordinating Group dated May 4, 2004 relative to the prepayment of the Developer's share of the cost of improvements to be installed by the City in Main Street. Mr. Ross indicated the costs were extremely excessive and exceeded the value of the purchase price of the subject land.

In answer to Councillor O'Shaughnessy's question as to whether the applicant had any letters of support from the adjoining neighbours, Mr. Ross responded in the negative. Councillor O'Shaughnessy advised Mr. Ross of his intention to adjourn this application in order that written approval or support for the application could be obtained from the property owner of the land located on the west side of the subject property. In the interim, Councillor O'Shaughnessy undertook to see what could be done for the Developer with respect to the development costs referred to above.

July 6, 2004
At the adjourned public hearing, Arnie Moss, appearing on behalf of the future owners of the subject property, appeared in support of the application. He advised Committee that pursuant to Committee's request of May 18, 2004, the applicant obtained the concurrence of the adjoining property owner for the proposed development of the subject property (Exhibit 11), as proposed by the applicant. Mr. Moss stated there is a need for the proposed six (6) unit condominium housing, which will generate additional property tax revenue to the City. Mr. Moss stated non-concurrence in recommendation numbered 1 of the report of the Administrative Coordinating Group inasmuch as the costs to be incurred by the Developer would amount to three-quarters of the cost of the land, thereby making the land not economically feasible to develop.

Exhibit "8" referred to in File DAZ 216/2004

In reply please refer to / Référence à rappeler :

John S. Wintrup
(204) 986-5102
Fax / Téléc. : (204) 986-3684

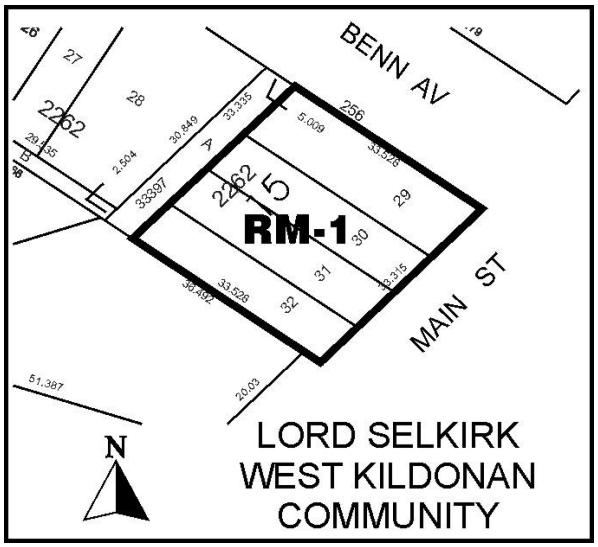
File No. DAZ 216/04 April 30, 2004
Our c/f CP 500 (.323)

Ms. Diane Timmins, Community Clerk
Lord Selkirk - West Kildonan Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Diane Timmins:

REZONING
256 Benn Avenue
Lord Selkirk - West Kildonan Community Committee
File No. DAZ 216/04

An application has been received from Dave Lowen to amend By-Law No. 6400/94 by rezoning the land shown below from a "R1-4" Single Family Residential District to an "RM-1" Multiple Family District to allow for the construction of a multiple family dwelling.



SITE DESCRIPTION:

Site Area: 6,353 square feet. The lot has 110 feet of frontage on Benn Avenue and 109.3 feet on Main Street.

Existing Land Use and Zoning: Vacant land designated "R1-4" Single Family Residential District.

Surrounding Land Use and Zoning:

North: Across Benn Avenue, Single family dwellings zoned "R1-20".
South: Single family dwellings zoned "R1-4".
East: Across Main Street, a golf driving range zoned "PR-2".
West: Across a closed public right-of-way, Single family dwellings zoned "R1-20".

DEVELOPMENT DESCRIPTION:

The applicant intends to rezone the subject property from a "R1-4" Single Family Residential District to an "RM-1" Multiple Family District in order to construct a 3 storey, six (6) unit multiple family dwelling.

"RM-1" is a multiple family zone that allows a building to be a maximum 30 feet in height and a minimum lot area per dwelling unit of 2,000 square feet.

Plans submitted by the applicant indicate that the building will be 26.9 feet to the roof line. The peak of the roof will be an additional 6 feet. The building will face north fronting onto Benn Avenue with a main entrance. Parking for nine (9) vehicles will be in the rear yard to the south. There will be no balconies on the front or sides of the building but windows on all four sides. There will be an exit staircase structure on the rear of the building to access each suite.

The suites will each have two bedrooms, a kitchen, a bathroom, a living room, and a utility area. The only common area will be the front foyer and interior stair case connecting the suites to the main entrance. Living room windows will all face north. Bedroom windows will face east and west. Kitchen windows will face south.

There is no indication of where the garbage containers will be located or the exact route for the lane connecting the parking area to the public street system. No landscaping has been provided on the plans submitted. There is no indication on the type or location of fencing, if any, that will be provided to screen the parking area from Main Street and the residential dwelling to the west.

PLAN WINNIPEG:

Plan Winnipeg supports multiple family, residential development in order to promote vibrant neighbourhoods with a variety of residential types; and to promote compact urban form by increasing densities.

ADMINISTRATIVE COMMENTS:

The Planning and Land-Use Division is recommending approval of the subject application. Main Street is a major traffic corridor where increased densities are expected. Higher residential building densities act as a buffer for the single family dwellings against the traffic corridor. The building is orientated in such a manner as to reduce visual intrusion on the residential dwellings to the west and south. Single family dwellings further to the south include two storey buildings. The residential dwelling to the south is perpendicular (and further west) to the proposed new building, thus there is no direct view of windows into windows.

The Division is also recommending that conditions of the rezoning include the submission of plans indicating several site design details to ensure the development is compatible with the adjacent residential dwellings. Landscaping, fencing, garbage containers and parking area need to be identified and reviewed by the LSWK in order to ensure the adjacent residences are not negatively impacted.

Public Works is recommending a 9 foot (2.743 metre) strip of land abutting Main Street be transferred to the City of Winnipeg to accommodate the future widening of the Main Street right-of-way.

RECOMMENDATION:

I. That By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 216/04, attached hereto and dated April 30, 2004, to a "RM-1" Multiple Family District, subject to the following:

   A. That the Developer be required to enter into Servicing Agreement AG 216/04 with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated May 4, 2004.

   B. 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, 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, and landscaping to the Lord Selkirk – West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit; and maintained thereafter to the satisfaction of the Director of Planning, Property and Development.

II. The Developer shall transfer to the City and legally open, at no cost to the City, property required for the 2.743 metre (9.00 feet) widening to Main Street right-of-way along the full length of the subject property abutting Main Street.

III. That a 10 per cent 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.

IV. That in the event this application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of this 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.**

V. That the City Solicitor be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

VI. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

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

VIII. That the City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter Act.

Final

Yours truly,

C. Knoll
Manager of Planning and Land Use

_____

Per: John S. Wintrup, Planner

Lord Selkirk - West Kildonan Community
986-5102

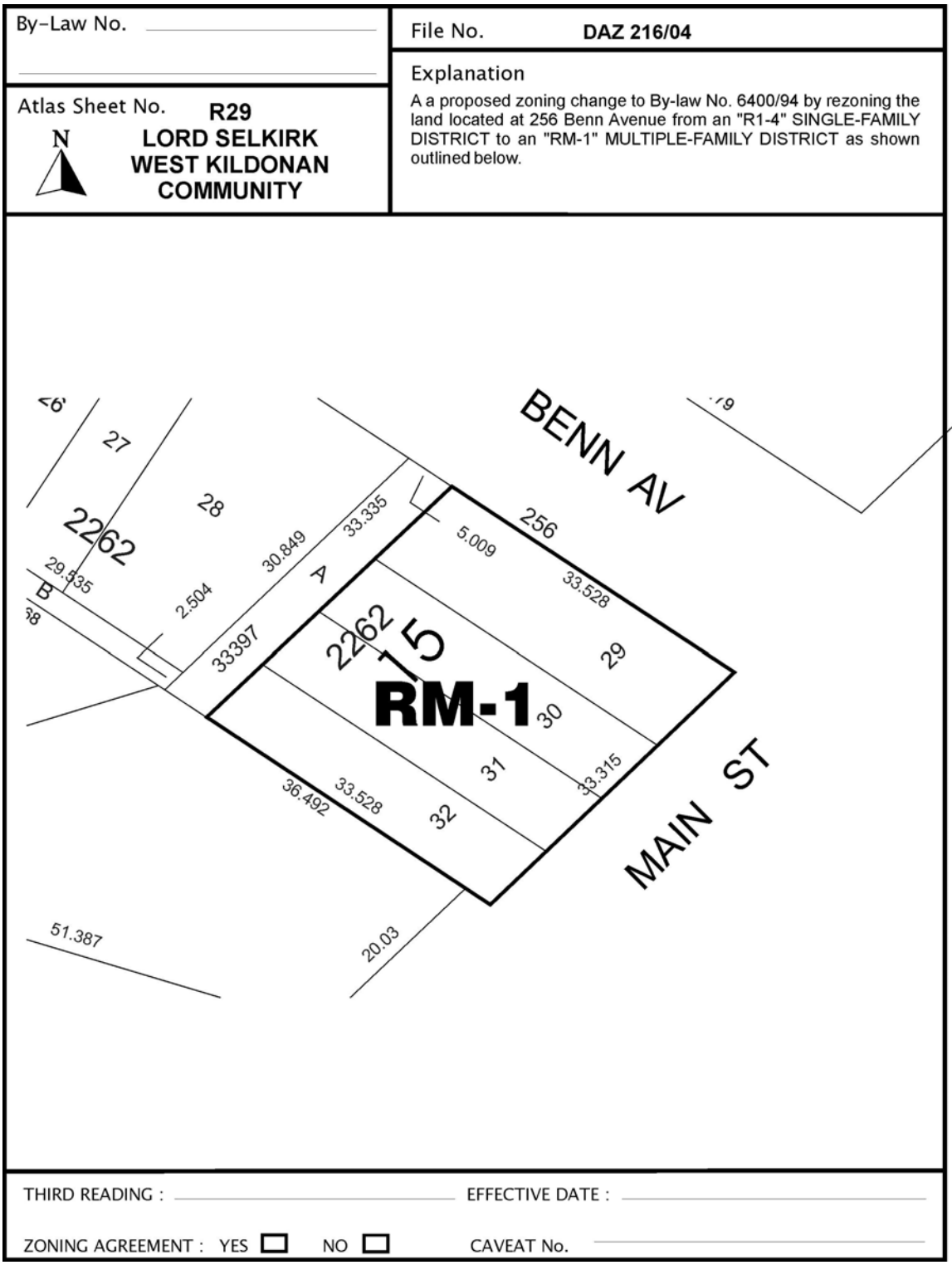


Figure 1: Schedule "A" to the report to the Lord Selkirk - West Kildonan Community Committee for File No. DAZ 216/04, dated April 30, 2004.

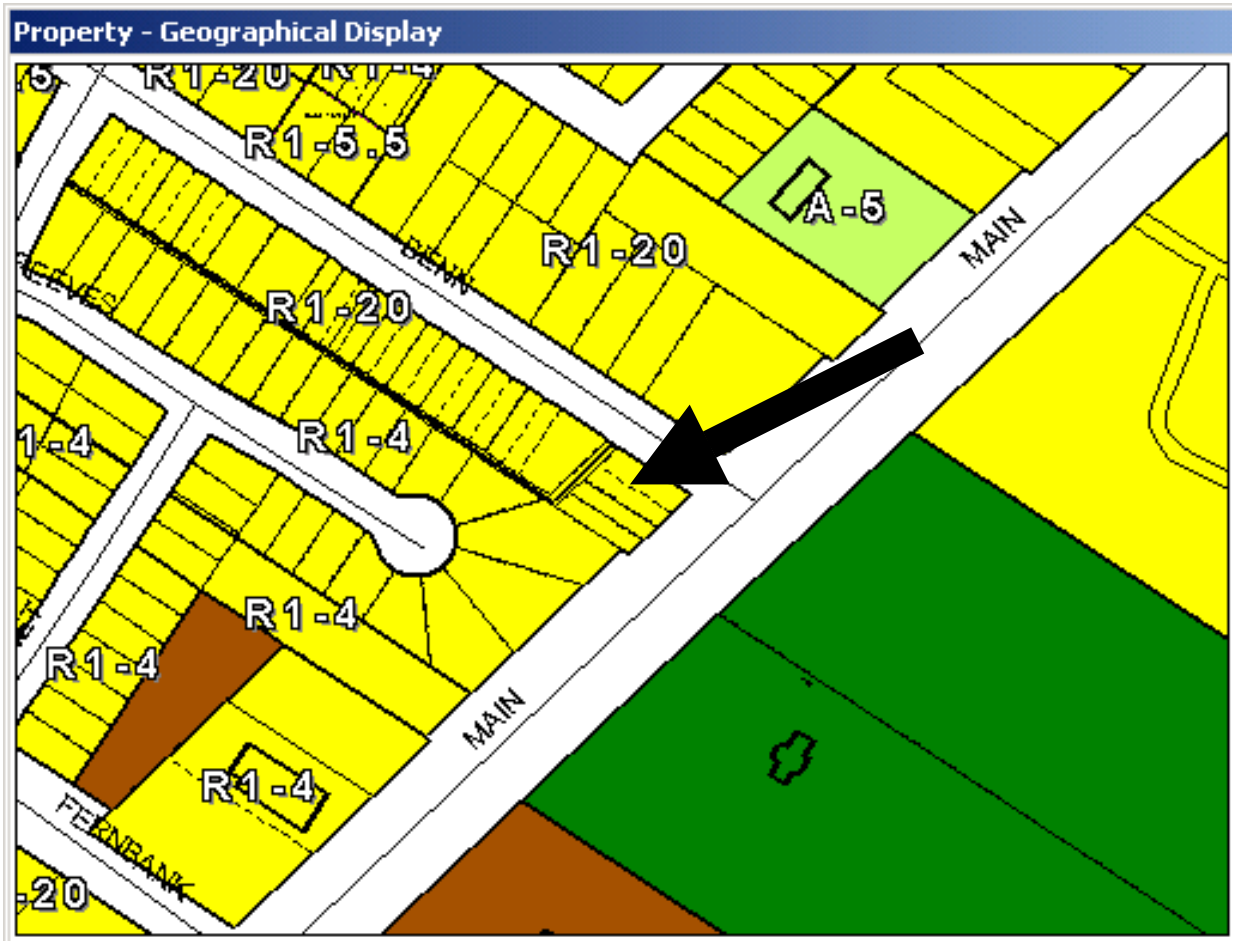


Figure 2: Existing Zoning for subject property and Surrounding Area.

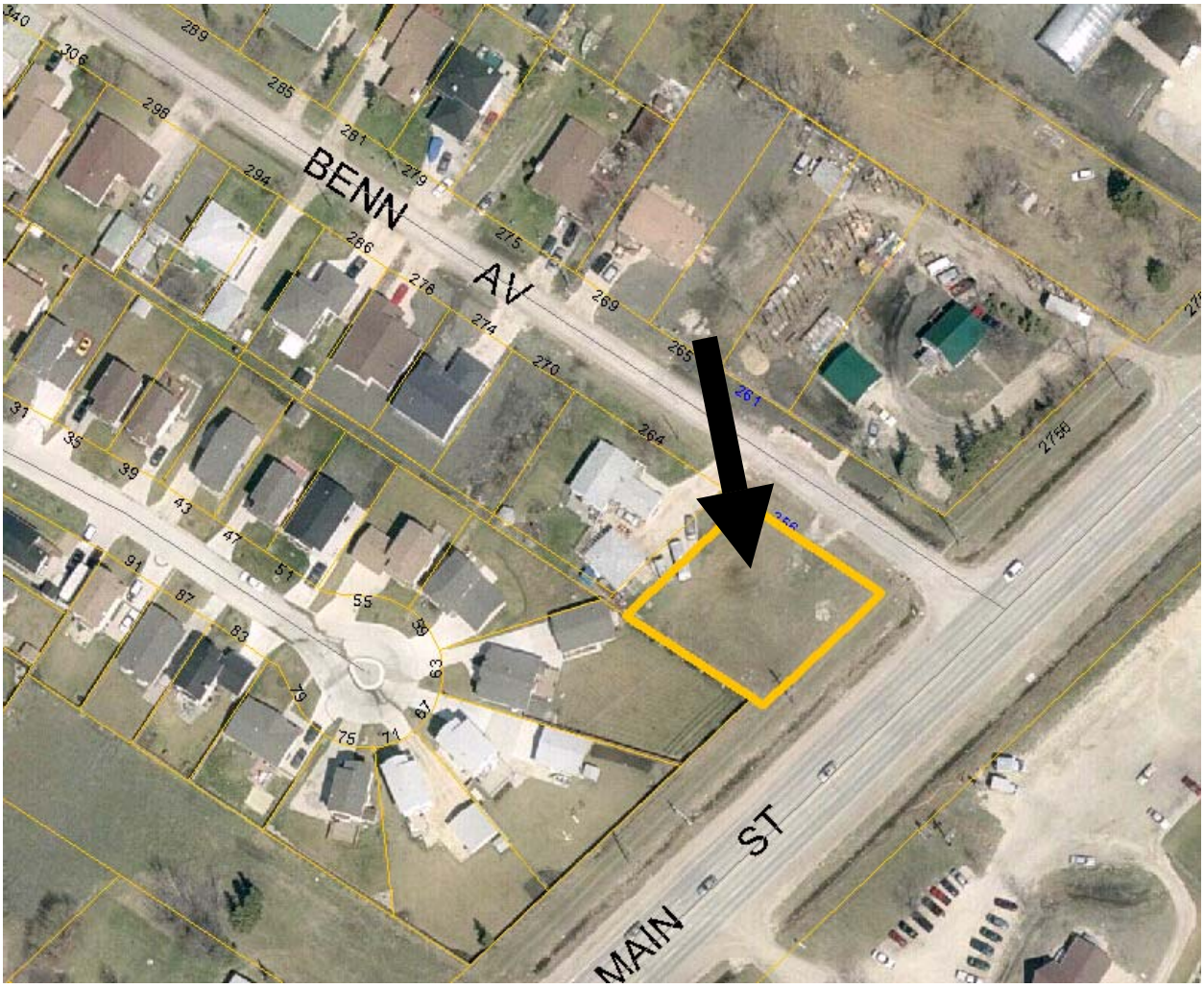


Figure 3: Existing Land-Uses for subject property and Surrounding Area.

Exhibit "8" referred to in File DAZ 216/2004

In reply please refer to / Référence à rappeler :

John S. Wintrup
(204) 986-5102
Fax / Téléc. : (204) 986-3684

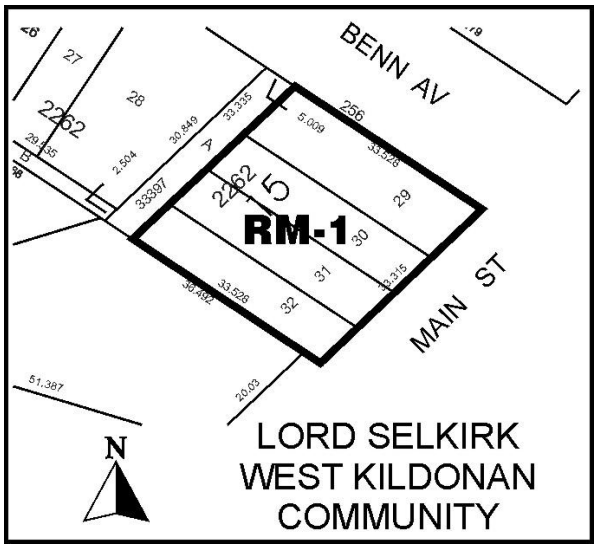
File No. DAZ 216/04 April 30, 2004
Our c/f CP 500 (.323)

Ms. Diane Timmins, Community Clerk
Lord Selkirk - West Kildonan Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Diane Timmins:

REZONING
256 Benn Avenue
Lord Selkirk - West Kildonan Community Committee
File No. DAZ 216/04

An application has been received from Dave Lowen to amend By-Law No. 6400/94 by rezoning the land shown below from a "R1-4" Single Family Residential District to an "RM-1" Multiple Family District to allow for the construction of a multiple family dwelling.



SITE DESCRIPTION:

Site Area: 6,353 square feet. The lot has 110 feet of frontage on Benn Avenue and 109.3 feet on Main Street.

Existing Land Use and Zoning: Vacant land designated "R1-4" Single Family Residential District.

Surrounding Land Use and Zoning:

North: Across Benn Avenue, Single family dwellings zoned "R1-20".
South: Single family dwellings zoned "R1-4".
East: Across Main Street, a golf driving range zoned "PR-2".
West: Across a closed public right-of-way, Single family dwellings zoned "R1-20".

DEVELOPMENT DESCRIPTION:

The applicant intends to rezone the subject property from a "R1-4" Single Family Residential District to an "RM-1" Multiple Family District in order to construct a 3 storey, six (6) unit multiple family dwelling.

"RM-1" is a multiple family zone that allows a building to be a maximum 30 feet in height and a minimum lot area per dwelling unit of 2,000 square feet.

Plans submitted by the applicant indicate that the building will be 26.9 feet to the roof line. The peak of the roof will be an additional 6 feet. The building will face north fronting onto Benn Avenue with a main entrance. Parking for nine (9) vehicles will be in the rear yard to the south. There will be no balconies on the front or sides of the building but windows on all four sides. There will be an exit staircase structure on the rear of the building to access each suite.

The suites will each have two bedrooms, a kitchen, a bathroom, a living room, and a utility area. The only common area will be the front foyer and interior stair case connecting the suites to the main entrance. Living room windows will all face north. Bedroom windows will face east and west. Kitchen windows will face south.

There is no indication of where the garbage containers will be located or the exact route for the lane connecting the parking area to the public street system. No landscaping has been provided on the plans submitted. There is no indication on the type or location of fencing, if any, that will be provided to screen the parking area from Main Street and the residential dwelling to the west.

PLAN WINNIPEG:

Plan Winnipeg supports multiple family, residential development in order to promote vibrant neighbourhoods with a variety of residential types; and to promote compact urban form by increasing densities.

ADMINISTRATIVE COMMENTS:

The Planning and Land-Use Division is recommending approval of the subject application. Main Street is a major traffic corridor where increased densities are expected. Higher residential building densities act as a buffer for the single family dwellings against the traffic corridor. The building is orientated in such a manner as to reduce visual intrusion on the residential dwellings to the west and south. Single family dwellings further to the south include two storey buildings. The residential dwelling to the south is perpindicular (and futher west) to the proposed new building, thus there is no direct view of windows into windows.

The Division is also recommending that conditions of the rezoning include the submission of plans indicating several site design details to ensure the development is compatible with the adjacent residential dwellings. Landscaping, fencing, garbage containers and parking area need to be identified and reviewed by the LSWK in order to ensure the adjacent residences are not negatively impacted.

Public Works is recommending a 9 foot (2.743 metre) strip of land abutting Main Street be transferred to the City of Winnipeg to accommodate the future widening of the Main Street right-of-way.

RECOMMENDATION:

I. That By-law 6400/94 be amended by rezoning the subject land as shown on Schedule "A", for file DAZ 216/04, attached hereto and dated April 30, 2004, to a "RM-1" Multiple Family District, subject to the following:

A. That the Developer be required to enter into Servicing Agreement AG 216/04 with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated May 4, 2004.

B. 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, 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, and landscaping to the Lord Selkirk – West Kildonan Community Committee for plan approval prior to the issuance of any building or development permit; and maintained thereafter to the satisfaction of the Director of Planning, Property and Development.

IX. The Developer shall transfer to the City and legally open, at no cost to the City, property required for the 2.743 metre (9.00 feet) widening to Main Street right-of-way along the full length of the subject property abutting Main Street.

X. That a 10 per cent 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.

XI. That in the event this application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of this 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.**

XII. That the City Solicitor be requested to prepare the necessary rezoning by-law and forward same to Council for all three readings.

XIII. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

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

XV. That the City Solicitor be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter Act.

Final

Yours truly,

C. Knoll
Manager of Planning and Land Use

_____

Per: John S. Wintrup, Planner

Lord Selkirk - West Kildonan Community
986-5102

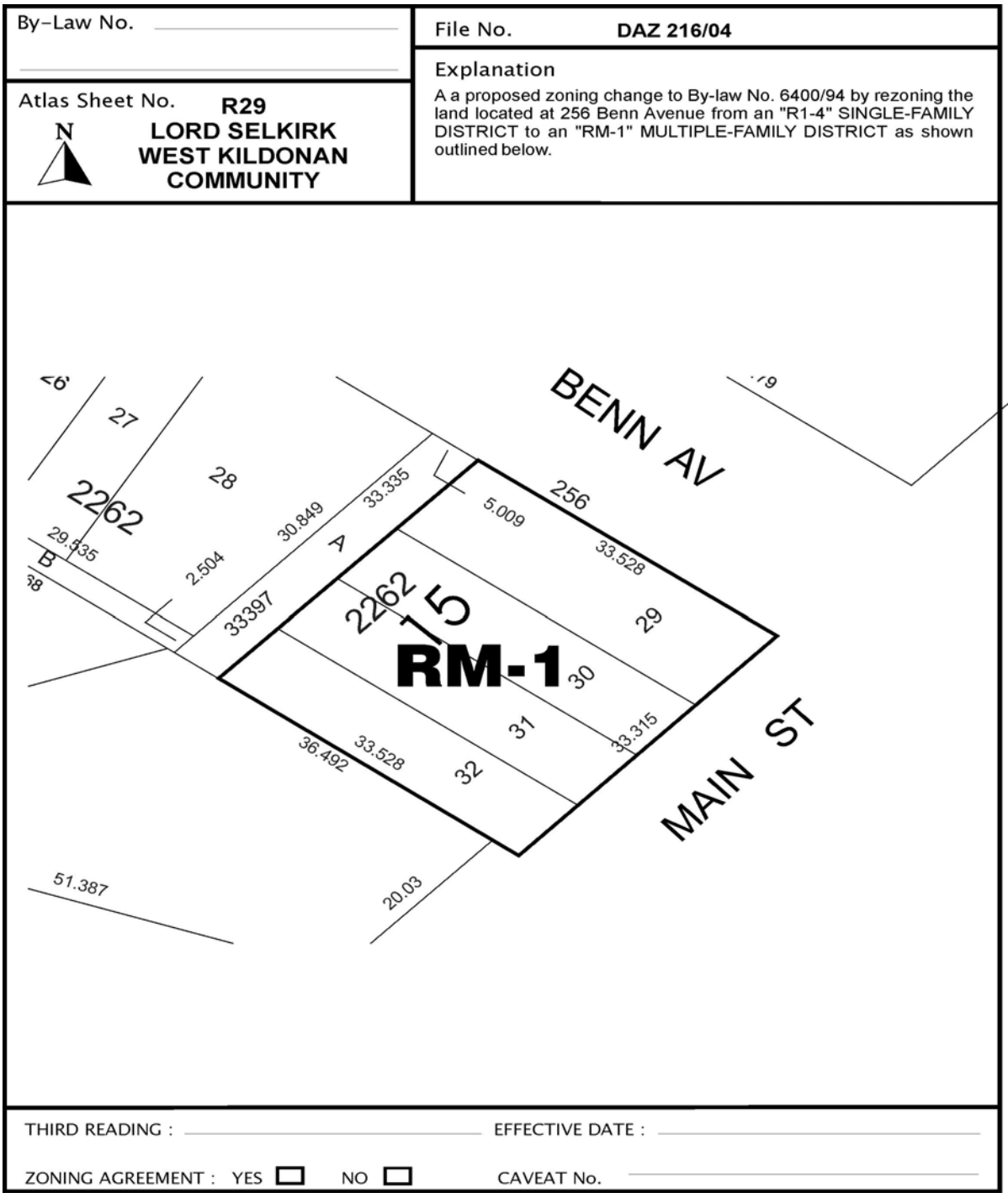


Figure 4: Schedule "A" to the report to the Lord Selkirk - West Kildonan Community Committee for File No. DAZ 216/04, dated April 30, 2004.

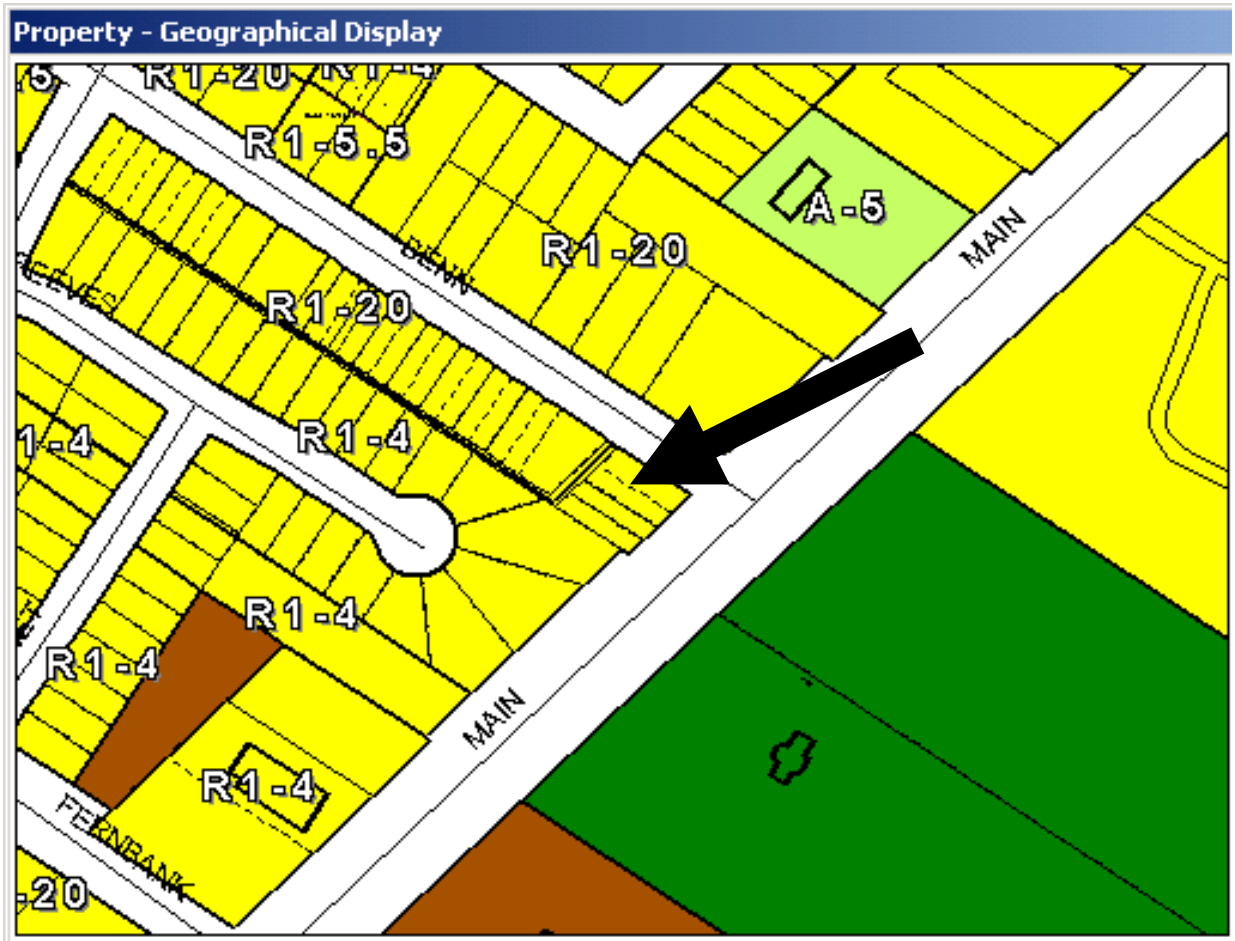


Figure 5: Existing Zoning for subject property and Surrounding Area.

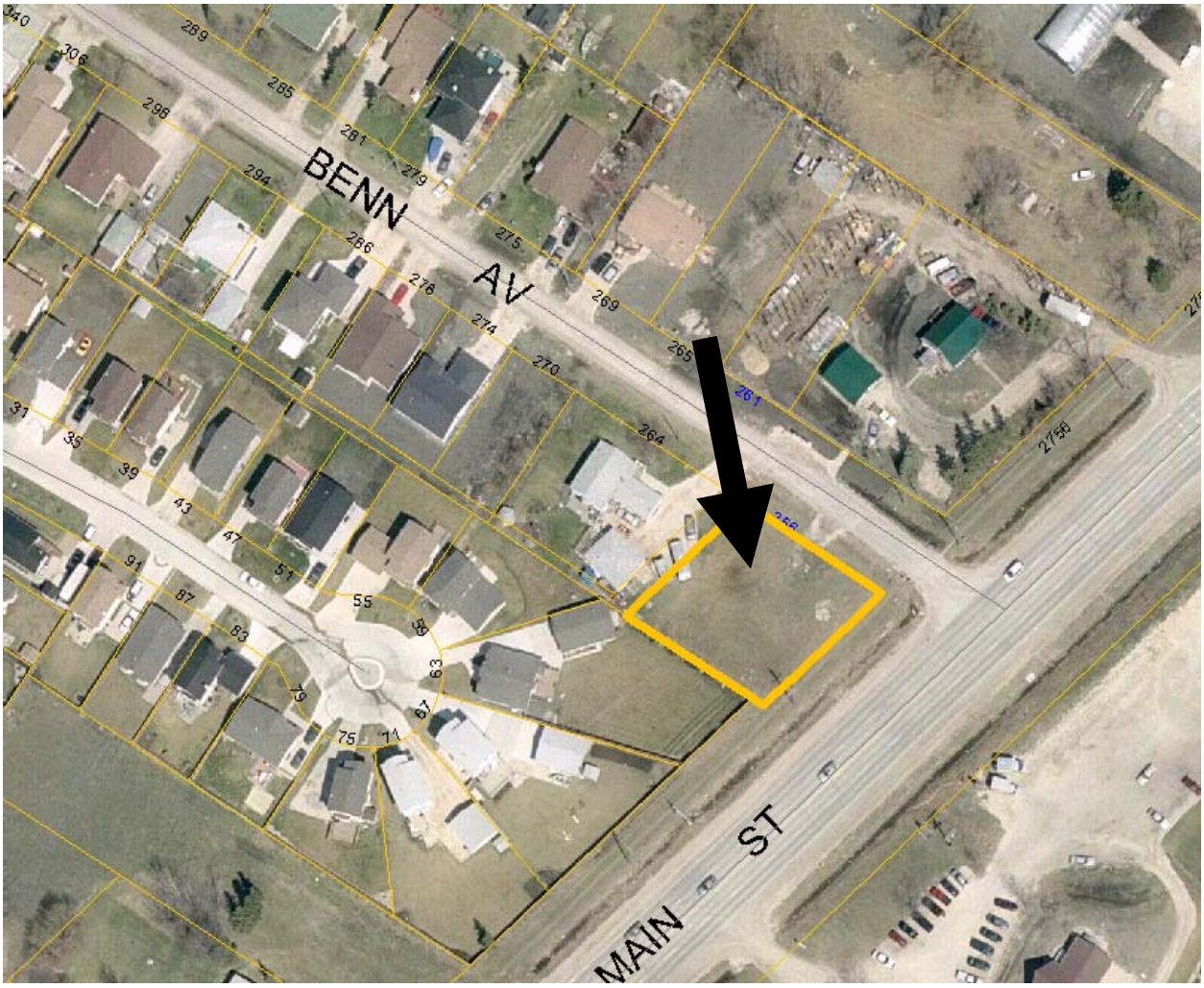


Figure 6: Existing Land-Uses for subject property and Surrounding Area.

Exhibit "9" referred to in File DAZ 216/2004

Re: Proposed rezoning of land located at the southwest corner of Main Street and Benn Avenue – DAZ 216/04

An application has been submitted by Dave Lowen to rezone land located at the southwest corner of Main Street and Benn Avenue.

It is recommended that approval of DAZ 216/04 be subject to the Developer entering into a Servicing Agreement with the City covering the following:

1. Prepayment of the Developer's share of the cost of concrete pavement, concrete sidewalk, street lighting and boulevard improvements to be installed by the City in Main Street. Based on the 2004 rates that share is calculated as follows:

i)		109.3' x $272.60/ft.
		$29,795.00
ii)	G.S.T. (7%) on i) above	2,085.65
	''$31,880.65	

2. Payment of the Developer's share of the cost of land drainage trunk facilities benefiting the proposed development. The 2004 rate is $11,194.00/acre.

3. Payment of a fee of $525.00 to defray the City's administration and related costs associated with the preparation and implementation of the servicing agreement.

THIS REPORT SUBMITTED BY:

Administrative Coordinating Group
File No. AG 216/04
May 4, 2004

V:\7-ACG Reports\04ag216-report.doc

"Original signed by E.L. Carrière"
Land Development Engineer

"Original signed by K.T. Raban"
Water and Waste Department

"Original signed by R.J. Hartmann"
Public Works Department
Transportation Division