Minute No. 310
Report – Executive Policy Committee – April 21, 2010

Item No. 5 **Rezoning – 618 Arlington Street**
(Daniel McIntyre Ward)
File DAZ 201/2010

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee 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 201/2010 dated March 29, 2010 to an "RMU" Residential Mixed Use 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 maximum height of the existing building shall be no greater than 65 feet.

        ii. That in the event that the existing building is damaged, in any manner whatsoever, to the extent that the cost of repairing such damage exceeds one hundred percent (100%) of the structure's assessed value on the last revised assessment roll; or the structure has been abandoned and/or deteriorated from natural causes to the extent that the cost of repair or renovation would exceed one hundred percent (100%) of its assessed value on the last revised assessment roll, the right to maintain the building shall terminate and any future development on the subject property shall not exceed a maximum height of 35 feet.

        iii. That in the event that the existing building is demolished and future development is proposed, said development shall not exceed a maximum height of 35 feet.

        iv. That the residential density shall not exceed seven (7) units.

Report – Executive Policy Committee – April 21, 2010

COUNCIL DECISION (continued):

v. That the land be restricted as follows:

a. The following uses shall be conditional on the land:

1. Drinking establishment;
2. Restaurant;
3. Post office/carrier depot;
4. Protection and emergency services.

vi. That no illuminated signage shall be permitted on the building;

vii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with a new occupancy permit.

viii. That for the development of any building or structure, plans shall be submitted showing the location and design of proposed buildings, the location and design of accessory parking areas, garbage enclosures, fencing and landscaping to the Director of Planning, Property and Development and the City Centre Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter 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.

Report – Executive Policy Committee – April 21, 2010

COUNCIL DECISION (continued):

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 – Executive Policy Committee – April 21, 2010

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 21, 2010, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 13, 2010, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted the matter to the Executive Policy Committee and Council.

RE: **Rezoning – 618 Arlington Street**
File DAZ 201/2010 [c/r DCU 106873/2010D and DAV 103447/2010D]

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

Prepared by: **Josie Marquez, Senior Committee Clerk**
City Centre Community Committee

Report date: **April 15, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On April 13, 2010, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee:

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 201/2010 dated March 29, 2010 to an "RMU" Residential Mixed Use 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:

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        ii. That in the event that the existing building is damaged, in any manner whatsoever, to the extent that the cost of repairing such damage exceeds one hundred percent (100%) of the structure's assessed value on the last revised assessment roll; or the structure has been abandoned and/or deteriorated from natural causes to the extent that the cost of repair or renovation would exceed one hundred percent (100%) of its assessed value on the last revised assessment roll, the right to maintain the building shall terminate and any future development on the subject property shall not exceed a maximum height of 35 feet.

        iii. That in the event that the existing building is demolished and future development is proposed, said development shall not exceed a maximum height of 35 feet.

        iv. That the residential density shall not exceed seven (7) units.

v. That the land be restricted as follows:

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1. Drinking establishment;
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3. Post office/carrier depot;
4. Protection and emergency services.

vi. That no illuminated signage shall be permitted on the building;

vii. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site, except that a mobile sign shall be permitted on the site for a period of thirty (30) days in association with a new occupancy permit.

viii. That for the development of any building or structure, plans shall be submitted showing the location and design of proposed buildings, the location and design of accessory parking areas, garbage enclosures, fencing and landscaping to the Director of Planning, Property and Development and the City Centre Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter 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 City Solicitor/Manager of Legal Services 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 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 City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. This building has been empty for some time and there have been complaints.

2. This is a proposal that puts the building back into use.

3. Artists are people who are not high in income earners, therefore the lack of parking is not a problem.

4. The proposal is a good use for the property.

PUBLIC HEARING SUMMARY

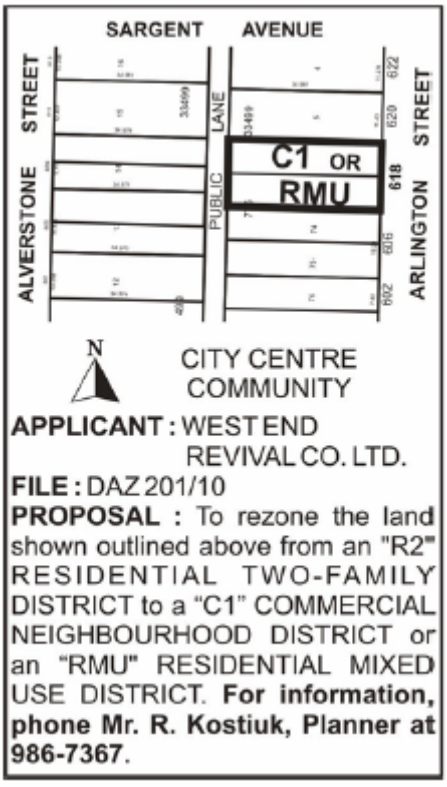
File: DAZ 201/2010 [c/r DCU 106873/2010D and DAV 103447/2010D]

Before: City Centre Community Committee
Councillor Smith, Chairperson
Councillor Gerbasi
Councillor Orlikow

Public Hearing: April 13, 2010
Council Chamber, Council Building,
510 Main Street

Applicant: West End Revival Company Ltd. (John Hunsberger)

Subject:



Premises Affected: 618 Arlington Street

Exhibits Filed:

1. Application dated January 22, 2010
2. Notification of Public Hearing dated February 8, 2010
3. Manitoba Status of Title 2380758
4. Surveyor's Building Location Certificate and sketch dated November 5, 2009
5. Plans (2 pages)
6. Report from the Planning and Land Use Division dated March 29, 2010
7. Inspection Report

REPRESENTATIONS:

In Support:

John Hunsberger

In Opposition

Nil

For Information:

Nil

For the City:

Mr. K. Raban, Land Development Administrator, Planning, Property and Development Department
Mr. M. Robinson, Senior Planner, Planning, Property and Development Department

Exhibit "6" referred to in File DAZ 201/2010 [c/r DCU 106873/2010D and DAV 103447/2010D]

ADMINISTRATIVE REPORT

ISSUE: DAZ 201/10 - 618 Arlington ST Public Hearing

Critical Path: City Centre 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
Dianne Himbeault	N/A	N/A	

RECOMMENDATIONS

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 201/2010 dated March 29, 2010 to an "RMU" Residential Mixed Use 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:

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iv. That the residential density shall not exceed seven (7) units;

v. That the land be restricted as follows:

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viii. That for the development of any building or structure, plans shall be submitted showing the location and design of proposed buildings, the location and design of accessory parking areas, garbage enclosures, fencing and landscaping to the Director of Planning, Property and Development and the City Centre Community Committee for plan approval prior to the issuance of any building or development permit, and thereafter to be maintained to the satisfaction of the Director of Planning, Property and Development.

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4. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary rezoning by-law and forward the same to Council for all three (3) readings.

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

7. 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.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Planning and Land Use Division are concurred in, a development permit can be issued.

HISTORY

- On January 28th, 1958, the Zoning Board of the City of Winnipeg granted Zoning Board Order No. Z 13/58 to permit the existing non-conforming building at 618 Arlington Street to be used for the manufacturing of baking products.
- On August 25th, 1961, the Board of Adjustment rejected a variance application (Case No. 137-61) to permit the erection of a projecting illuminated sign on the front of the existing non-conforming building.
- On October 12th, 1971, the Board of Adjustment granted a variance application (Order No. 478-71) to permit the addition of a non-illuminated reader panel onto an existing fascia sign. This Order was to expire within one year of the date that the Order was granted, unless a building permit covering the variance was obtained.
- On September 13th, 1979, City Centre-Fort Rouge Community Committee granted a variance for file DAV 604/79 to permit the occupancy of an existing non-conforming four (4) storey for retail clothing sales; warehousing; and needle trades.

CONSULTATION

In preparing this Report there was consultation with:

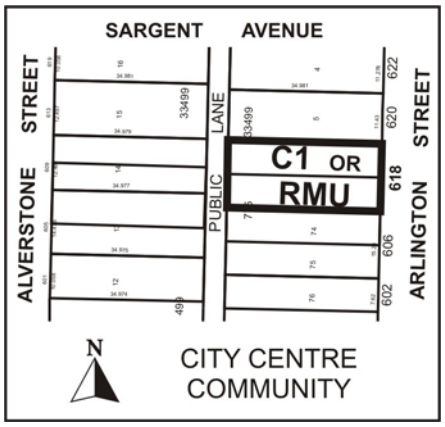
N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Development and Inspections Division
Prepared by	Robert Kostiuk
Date:	March 29, 2010
File No.	DAZ 201/10
Appendix A	Administrative Report
Appendix B	Schedule “A”

APPENDIX 'A'

DATE:	March 29, 2010
FILE:	DAZ 201/10
RELATED FILES:	DCU 10-106873/D, DAV 10-103447/D Zoning Order No. Z 13/58, Case No. 137-67, Order No. 478-71, DAV 604/79
COMMUNITY:	City Centre Community
NEIGHBOURHOOD #:	1.108
SUBJECT:	**To rezone the property from "R2" Residential Two-Family to "RMU" Residential Mixed Use to allow for the development of thirty-three (33) artist studios and a single apartment unit.**
LOCATION:	618 Arlington ST
LEGAL DESCRIPTION:	LOT 73 BLOCK 4 PLAN 775 65 ST JA LOT 6 PLAN 33499 63/65 ST JA



APPLICANT:	John Hunsberger (WEST END REVIVAL COMPANY LTD.) 324 YOUNG ST WINNIPEG MB R3B 2S4
OWNER:	John Hunsberger (WEST END REVIVAL COMPANY LTD.) 324 YOUNG ST WINNIPEG MB R3B 2S4
RECOMMENDATION:	Approval with conditions

REPORT SUMMARY

- The subject property is located on the west side of Arlington Street between Sargent Avenue and Ellice Avenue in the Daniel McIntyre neighbourhood of the Daniel McIntyre Ward.
- The property is zoned "R2" Residential Two-Family and is approximately **5,796 square feet** in area.

- The property contains a four storey building that is approximately sixty-five (65) feet tall and has a footprint of approximately 5,158 square feet.
- The existing building on the property has been an anomaly in the neighbourhood for decades. Arlington Street between Sargent Avenue and Ellice Avenue is predominantly comprised of one to one-and-a-half storey single-family homes. This building is 65 feet tall – approximately 30 to 40 feet taller than surrounding homes – and has been used over the years as a manufacturing/warehouse site within the residential neighbourhood. However the building has lost its non-conforming right to a warehouse use.
- The applicant is in the process of refurbishing the building to develop artist studios on the first three (3) floors and a single apartment on the fourth floor of the four-storey building. The applicant is proposing eleven (11) artists studios per floor, for a total of thirty-three (33) studios.
- Although the building remains out of character with the surrounding neighbourhood, the proposed uses (a single dwelling unit and artist studios) are in many ways less disruptive to the neighbourhood than the previous manufacturing/warehouse uses that the building has contained in past years.
- The Planning and Land Use Division supports this application because:
    - The proposed adaptive reuse of the building can help alleviate safety concerns associated with the general neglect of the building;
    - The proposed uses (a single dwelling unit and artist studios) are in many ways less disruptive to the neighbourhood than the previous manufacturing/warehouse uses that the building has contained in past years; and,
    - Restrictions placed on the subject property through the zoning agreement can help ensure that the building and its associated uses are more compatible with the neighbourhood.

SITE DESCRIPTION

- The subject property is approximately **5,796 square feet** in area and is located on the west side of Arlington Street between Sargent Avenue and Ellice Avenue in the Daniel McIntyre neighbourhood of the Daniel McIntyre Ward.
- The property contains a four storey building that is approximately sixty-five (65) feet tall and has a footprint of approximately 5,158 square feet.
- This building was developed in 1911 and has been used over the years as a warehouse/manufacturing site for various businesses. However, the building has lost its non-conforming right to a warehouse use.
- The building on the subject property has been a legally existing non-conforming building in this area, which has been zoned “R2” for at least 50 years (see Zoning Order No. 13/58).
- The site is currently zoned “R2” Residential Two-Family.
- The subject property is predominantly surrounded by single-family homes with detached garages with vehicular access from the back lane.



Figure 1: Air photo (flown 2009) of the subject property and surrounding area.

SURROUNDING ZONING & USES (See Figure 2)

North: Single-family detached homes zoned “R2” Residential Two-Family. Beyond the single-family homes there are commercial properties zoned “C2” Commercial Community that front onto Sargent Avenue. These commercial properties are within a Neighbourhood Main Streets Planned Development Overlay.

South: Single-family detached homes zoned “R2” Residential Two-Family.

East: A church (Miracle Apostolic Church) and single-family detached homes zoned “R2” Residential Two-Family.

West: Single-family detached homes zoned “R2” Residential Two-Family.

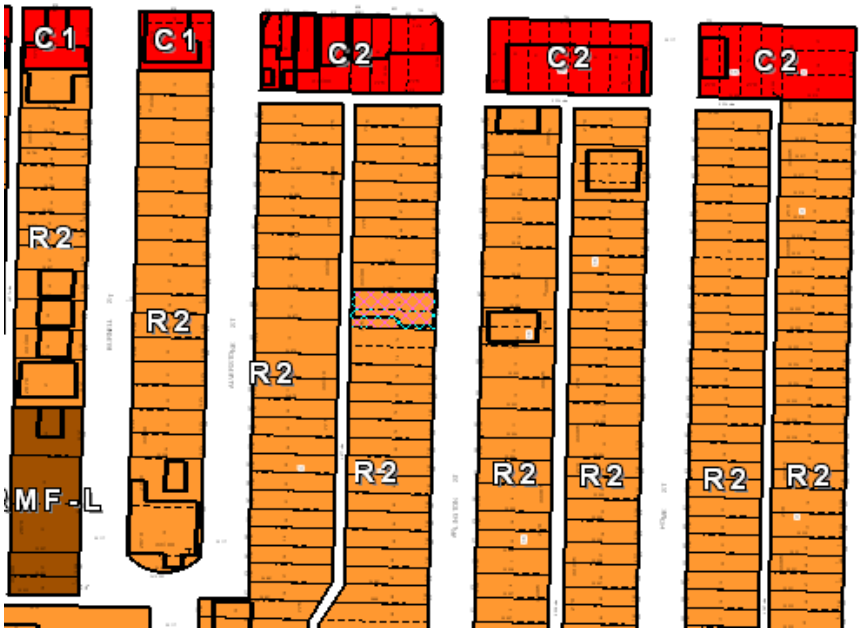


Figure 2: Zoning of the subject property and surrounding area

BACKGROUND

- The subject property was advertised in the newspaper as a rezoning to "C1" Commercial Neighbourhood or "RMU" Residential Mixed Use.
- The Planning and Land Use Division discussed a preferred zoning district with the applicant. The "RMU" Residential Mixed Use district was chosen by the applicant and the Division because:
    - the RMU zone permitted the uses proposed, and
    - most of the dimensional standards of the R2 zone are more similar to the RMU zone than those in the C1 zoning district.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is in the process of refurbishing the building to develop artist studios on the first three (3) floors and a single apartment on the fourth floor of the four-storey building.
- The artists studios would be rented for day-use and the single apartment would be occupied by the applicant who is the owner of the West End Revival Company.
- The applicant is proposing eleven (11) artists studios per floor, for a total of thirty-three (33) studios. The studio spaces would range in size from 195 square feet to 325 square feet. Two bathrooms would be provided on each floor.
- The fourth floor apartment will be an open concept with no walls.

- As the property is predominantly covered by the building, on-site accessory parking will not be provided for the artist studios. A single vehicle parking space is proposed for the dwelling unit along the south side of the building near the rear property line. A locked bicycle parking area will be provided in the basement that can accommodate at least 33 bicycles.
- The proposed development requires several variances (listed under Land Use By-Law) and a conditional use to allow for the establishment of a personal service exceeding 5,000 square feet.

ANALYSIS AND ISSUES

PLAN WINNIPEG

- The proposed rezoning complies with *Plan Winnipeg 2020.*

ZONING

- **"R2" Residential Two-Family District** is intended to accommodate the development of single and two-family units and where appropriate limited multi-family units in lower density neighbourhoods. There is a front yard requirement of 20 feet and the maximum building height is 35 feet. The minimum side yard requirement is 4 feet. The minimum lot width is 25 feet and lot area 5,000 square feet (2,500 per dwelling unit).
- **"RMU" Residential Mixed Use District** is intended to facilitate the development of primarily medium to higher-density residential development, though it also may contain limited small-scale commercial, institutional, recreational, and service facilities needed to support residential development. The dimensional standards for principal non-residential structures in the RMU zone are: a minimum lot area of 9,000 square feet; minimum front yard of 20 feet; a minimum rear yard of 25 feet; minimum side yard of 5 feet; and, a maximum building height of 39 feet. Single-family residences proposed in the RMU zone must meet the R1-M dimensional standards.
- **"C1" Commercial Neighbourhood** is intended to accommodate small, compact commercial uses within or surrounded by residential areas that are attractive and compatible in scale and character with surrounding residential uses, to serve the convenience needs of the surrounding neighbourhood. This district is not intended to accommodate businesses sized or designed to serve a trade area more than one-half mile from the business. C1 districts are generally located along local streets or at local/collector intersections. There are no minimum front, rear or side yards in this zone. The maximum building height is 39 feet and the maximum floor area ratio is 1.0.
- **"R1-M" Residential Single-Family Medium District** requires: a minimum lot width of 25 feet, minimum lot areas 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.

LAND USE BY-LAW

- The variances and/or conditional use may be appealed to the Appeals Committee for a new public hearing, whereas a recommendation by Community Committee for a rezoning proceeds to Council for decision.

Rezoning from R2 to RMU

- A single-family dwelling is permitted in both the R2 and RMU zones.
- Personal services uses (such as artist studios) are not permitted in the "R2" Residential Two-Family zone.
- The "RMU" Residential Mixed Use zone permits personal service uses, however in the RMU zone, personal service uses are subject to a use specific standard that limits the gross floor area and hours of operation.

Conditional Use

- The applicant is proposing to develop artist studios (a personal service use) over three stories within the existing building, which has a footprint of approximately 5,000 square feet. In total, approximately 15,000 square feet of gross floor area is proposed to be used for artist studios.
- A conditional use application is required because the RMU zone has a use specific standard that limits the gross floor area for personal services uses to 5,000 square feet.

Variances

- The existing building was constructed prior to the existence of the City of Winnipeg's first zoning by-law (Winnipeg Zoning By-Law No. 13060, which took effect January 7, 1929) and associated standards.
- The proposed rezoning of the site requires the non-conforming building on the subject property to conform with the standards established in the current Zoning By-Law No. 200/2006. As this is not possible, a variance application is necessary.
- There are two sets of variances required for the building/site. The first set applies to a principal non-residential structure in the RMU zone. The second set of variances applies to the establishment of a single-family dwelling unit in a commercial building. Single-family residences within the RMU zone must meet the R1-M dimensional standards.
- The existing building does not have a front, rear or side yard setbacks, and therefore does not conform with any required setback for a principal non-residential structure in the RMU zone or a single-family dwelling in the R1-M zone.
- The height of the building (65 feet) does not conform to the standards of either the RMU or R1-M zones. The maximum height permitted for principal non-residential structures in the RMU zone is 39 feet and 35 feet in the R1-M zone.
- A principal non-residential structure in the RMU zone requires a minimum lot area of 9,000 square feet. The lot area of the subject property is 5,796 square feet.
- Personal service uses are required one parking space for each 250 square feet of floor area over 2,000 square feet. The subject property is located within an Urban Infill Area, which reduces the parking requirement by 20% of the required total (Section 171(2) of

Zoning By-Law 200/2006). This required total is reduced by another 20% because the building contains a combination of uses (Section 171(3) of Zoning By-Law 200/2006). The proposed artist studios have approximately 3,000 square feet of usable space per floor for a gross total of 9,000 square feet. Including the reductions, the required amount of parking spaces for the personal service use (artist studios) is 18 stalls.

- The R1-M zone requires a total lot coverage of 45%; the lot coverage of the existing building is 89%.

COMPATIBILITY WITH EXISTING NEIGHBOURHOOD AND SURROUNDING USES

- The existing building on the property has been an anomaly in the neighbourhood for decades. Arlington Street between Sargent Avenue and Ellice Avenue is predominantly comprised of one to one-and-a-half storey single-family homes. This building is 65 feet tall – approximately 30 to 40 feet taller than surrounding homes – and has been used over the years as a manufacturing/warehouse site within the residential neighbourhood. However the building has lost its non-conforming right to a warehouse use.
- The building pre-exists many of the buildings in the surrounding neighbourhood, including all of the immediate neighbouring properties to the north, east, south, and west.
- Over the past six years the City of Winnipeg has received a number of complaints regarding the building. Complaints have ranged from bricks falling off of the building (2004, 2007) to concerns being raised over the general safety of the building, including the interior conditions (2006, 2009).
- Although the building remains out of character with the surrounding neighbourhood, the proposed uses (a single dwelling unit and artist studios) are in many ways less disruptive to the neighbourhood than the previous manufacturing/warehouse uses that the building has contained in past years.
- The added investment in the building can help alleviate safety concerns associated with the general neglect of the building.
- Restrictions placed on the subject property through the zoning agreement can help ensure that the building and associated uses are more compatible with the neighbourhood.

PARKING

- The building occupies the vast majority of the lot. As such, on-site accessory parking is not proposed for this development.
- The owner is proposing a lockable bicycle area in the building that would accommodate at least 33 bicycles.
- There is some available on-street parking along Arlington Street.

- The subject property is located near an intersection where Winnipeg Transit service is provided. The Sargent Avenue and Arlington Street intersection is located within 130 metres of the subject property. This intersection contains bus stops for both the 15 Sargent-Mountain and 71 Arlington buses.

LAND DEDICATION

- When a developer rezones and/or subdivides a parcel of land, they are required to put in an application with the City of Winnipeg.
- As a condition of rezoning or subdivision, a developer is required to contribute a portion of the land to be developed to the City for parks purposes.
- The amount of lands is not less than 10%.
- The developer will provide land or 'cash in lieu' as determined by the Planning, Property and Development Department.
- Planning, Property and Development are requesting 'cash in lieu' for this application.

RECOMMENDATIONS

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

- The proposed adaptive reuse of the building can help alleviate safety concerns associated with the general neglect of the building.
- Although the building remains out of character with the surrounding neighbourhood, the proposed uses (a single dwelling unit and artist studios) are in many ways less disruptive to the neighbourhood than the previous manufacturing/warehouse uses that the building has contained in past years.
- Restrictions placed on the subject property through the zoning agreement can help ensure that the building and its associated uses are more compatible with the neighbourhood.

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

Report Prepared by: Robert Kostiuk
PPD File # DAZ 201/10

APPENDIX "B"

Schedule "A" for File No. DAZ 201/2010, City Centre Community Committee, dated March 29, 2010.

