Council – Agenda – September 22, 2010

Report – Executive Policy Committee – September 15, 2010

Item No. 2 Rezoning – 164 Langside Street
(Fort Rouge – East Fort Garry Ward)
File DAZ 215/2010

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 15, 2010, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submits the following to Council:

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 215/2010 dated September 1, 2010 to a "C1" Commercial District.

    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 be conditional on the land:

                1. Medical/dental/optical counseling clinic
                2. Restaurant
                3. Animal hospital or veterinary clinic
                4. Kennel
                5. Day care centre
                6. Protection and emergency services
                7. Post office/carrier depot
                8. Library
                9. Single Room Occupancy

            b. The following use shall be prohibited on the land:

                1. Contractor's establishment

        ii. That no internally illuminated signage shall be permitted on the building

        iii. 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;

Report – Executive Policy Committee – September 15, 2010

iv. 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 the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

4. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within twelve (12) 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 twelve (12) month period and the extension is subsequently approved by Council.

5. 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.

6. 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.

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

8. 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 – September 15, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 15, 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 September 7, 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 – 164 Langside Street**
File DAZ 215/2010

For submission to: **Executive Policy Committee**

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

Report date: **September 8, 2010**

COMMUNITY COMMITTEE RECOMMENDATION:

On September 7, 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 215/2010 dated September 1, 2010 to a "C1" Commercial District.

    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 be conditional on the land:

                1. Medical/dental/optical counseling clinic
                2. Restaurant
                3. Animal hospital or veterinary clinic
                4. Kennel
                5. Day care centre
                6. Protection and emergency services
                7. Post office/carrier depot
                8. Library
                9. Single Room Occupancy

            b. The following use shall be prohibited on the land:

                1. Contractor's establishment

        ii. That no internally illuminated signage shall be permitted on the building

        iii. 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.

v. 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 the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

4. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within twelve (12) 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 twelve (12) month period and the extension is subsequently approved by Council.

5. 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.

6. 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.

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

8. 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.

The City Centre Community Committee provided the following supporting reason(s) for its recommendation:

1. This is a mixed use project supported by the community with positive impact on the community.

PUBLIC HEARING SUMMARY

File: DAZ 215/2010

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

Public Hearing: September 7, 2010
North Committee Room
Council Building, 510 Main Street

Applicant: Tribal Explorations Inc. (Don Courtnage)

Subject:



Premises Affected: 164 Langside Street

Exhibits Filed:
1. Application dated July 15, 2010
2. Notification of Public Hearing dated July 16, 2010
3. Title Search 1635392
4. Surveyor's Building Location Certificate and sketch dated July 19, 2010
5. Variance Order DAV 289/99C
6. Plans (8 pages)

7. Report from the Planning and Land Use Division dated September 1, 2010
9. Inspection Report
10. Audio Recording of representations of public hearing held on September 7, 2010

REPRESENTATIONS:

In Support:

Don and Pat Courtnage

In Opposition:

Nil

For Information:

Nil

For the City:

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

Exhibit "7" referred to in File DAZ 215/ /2010

ADMINISTRATIVE REPORT

Title: DAZ 215/2010 – 164 Langside Street

Issue: For consideration at the public Hearing for a Rezoning for DAZ 215/2010 – 164 Langside ST

Critical Path: City Centre Community Committee as per the Development Procedures By-law and *The City of Winnipeg Charter.*

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Regan	n/a	n/a	

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 215/2010 dated September 1, 2010 to a "C1" Commercial District.

   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 be conditional on the land:

            1. Medical/dental/optical counseling clinic
            2. Restaurant
            3. Animal hospital or veterinary clinic
            4. Kennel
            5. Day care centre
            6. Protection and emergency services
            7. Post office/carrier depot
            8. Library
            9. Single Room Occupancy

         b. The following use shall be prohibited on the land:

1. Contractor's establishment

ii. That no internally illuminated signage shall be permitted on the building

iii. 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;

iv. 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 the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

4. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within twelve (12) 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 twelve (12) month period and the extension is subsequently approved by Council.

5. That the Acting 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.

6. 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.

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

8. That the Acting 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.

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REASON FOR THE REPORT

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 Planning and Land Use Division are concurred in, the subject property will be rezoned.

CONSULTATION

In preparing this Report there was consultation with:
N/A

SUBMITTED BY

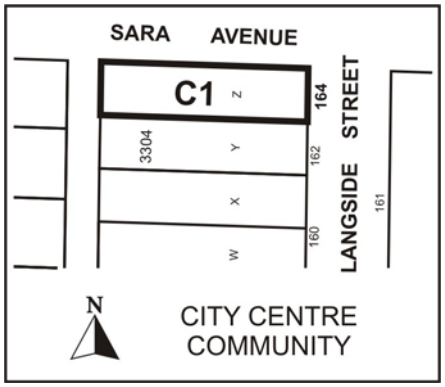
Department	*Planning, Property and Development*
Division	*Planning and Land Use*
Prepared by	Michael Robinson, AICP
Date:	September 1, 2010
File No.	DAZ 215/2010

APPENDIX 'A'

DATE: September 1, 2010
FILE: DAZ 215/2010
RELATED FILES: DAV 289/99C
COMMUNITY: City Centre Community
NEIGHBOURHOOD #: 1.103

SUBJECT: To rezone the subject land at the southwest corner of Langside Street and Sara Avenue from an "R2" Two-Family Residential District to a "C1" Commercial District.

LOCATION: 164 Langside ST
LEGAL DESCRIPTION: LOT Z, Plan 3304



APPLICANT: Tribal Explorations – Don Courtnage
164 LANGSIDE ST
WINNIPEG MB R3C 1Z4

OWNER: Same

RECOMMENDATION: Approval, with conditions

SITE DESCRIPTION
The subject property, which is zoned "R2" Two-Family Residential District, is located at the southwest corner of Langside Street and Sara Avenue in the West Broadway neighbourhood of the Fort Rouge-East Fort Garry ward.

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

BACKGROUND
In 1999, the Board of Adjustment approved a use variance for a change of use for a period not to exceed five years, to permit the establishment of an office and an artist's studio in an existing building.

The use variance expired in 2004, however, the uses have continued since that time, without incident.

DESCRIPTION OF THE PROPOSED DEVELOPMENT
The applicant seeks approved to rezone the subject property to maintain the operation of an artist's studio on the first floor and an office on the second floor, and to establish a dwelling unit on the third floor. These uses were first established through a use variance in 1999.

ANALYSIS AND ISSUES
The proposal is to rezone a 3 storey, brick commercial building at the corner of Sara and Langside within the West Broadway neighbourhood. Historically, the building used to house a corner store with apartments above. Prior to the current owners redeveloping the property in 1999, it was vacant and in need of rehabilitation.

The commercial uses (artist studio and office) are a good fit in the neighbourhood and have operated without incident since 1999.

Context
Small commercial uses on corners within residential neighbourhoods can add vibrancy to an area and over time, become part of the neighbourhood fabric.

With that said, conditions are required to ensure that the building scale and permitted uses are aligned with the neighbourhood context.

Other
At the time the use variance was approved by the Board of Adjustment in 1999, the record shows that the applicant intended to eventually apply for a rezoning. Consequently, the establishment of this use was never intended to be temporary.

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

- The building has historically been used for commercial purposes
- The commercial uses in the building (artist studio and office) are a good fit in the neighbourhood and have operated without incident since 1999.
- The use was legally established by a use variance in 1999. At the time the use variance was approved by the Board of Adjustment in 1999, the record shows that the applicant intended to eventually apply for a rezoning.
- The rezoning does not create an adverse impact on adjoining properties and the surrounding neighbourhood
- The rezoning is consistent with Plan Winnipeg

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

Report Prepared by: Michael Robinson, AICP
PPD File # DAV 10-146339/C

APPENDIX "B"

Schedule "A" for File No. DAZ 215/2010, City Centre Community Committee, dated September 1, 2010

By-Law No. _____

File No. **DAZ 215/10**

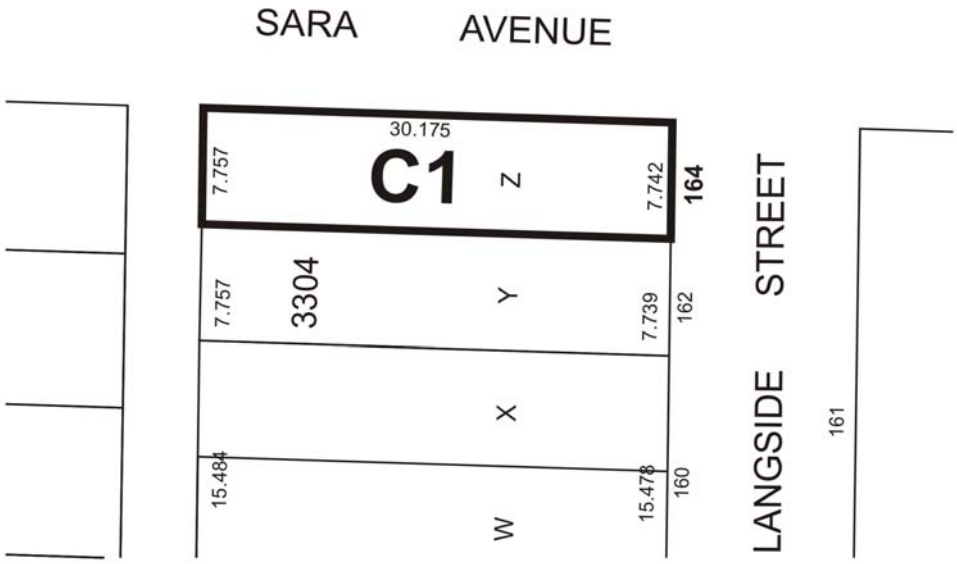
Atlas Sheet No.

N

AA23
CITY CENTRE
COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 164 Langside Street from an "R2" RESIDENTIAL TWO-FAMILY DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT for the maintenance of an existing office and dwelling unit as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____



Figure 1: Aerial Photo (Flown in 2009)

Exhibit “5” referred to in File DAZ 215/ /2010

The City of Winnipeg

VARIANCE ORDER

BOARD OF ADJUSTMENT

DAV 289/99C

APPLICANT:	Tribal Explorations Inc. 164 Langside Street (Pat Courtnage) Winnipeg, Manitoba R3C 1Z4
PREMISES AFFECTED:	164 Langside Street southwest corner of Sara Avenue
LEGAL DESCRIPTION:	Lot 2, Plan 3304, hereinafter called "the land".
PROPERTY ZONED:	"R2-T"
ZONING ATLAS SHEET:	AA23 (AZ)
NATURE OF APPLICATION:	To vary the "R2-T" district regulations of Zoning By-law No. 6400/94 to permit as follows:

1) for a change of use for a period not to exceed five years, to permit the establishment of an office and an artist's studio in an existing building;

2) for the development of an accessory parking area to permit as follows:

   a) parking directly off a lane instead of an aisle;
   b) 3 parking spaces instead of 4 spaces;

3) for the construction of a building addition, deck and balconies to permit as follows:

   a) no south side yard instead of 10 feet (3.05 metres);
   b) a height of 32.5 feet (9.91 metres) instead of 30 feet (9.14 metres);
   c) a lot coverage of 46% instead of 40%.

It is the opinion of the Board of Adjustment that subject to conditions listed below, if any, this order meets the statutory criteria of The City of Winnipeg Act in that it:

(a) is consistent with Plan Winnipeg and Zoning By-law No. 6400/94;

(b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area; and

. . . . /2

(c) is the minimum variation of Zoning By-law No. 6400/94 required to relieve the injurious effect of said Zoning By-law No. 6400/94 on the applicant's property.

C.W. Act section 608(1)

ORDER:

The Board of Adjustment orders that the provisions of the "R2-T" district regulations of Zoning By-law No. 6400/94 and amendments thereto are varied TO PERMIT on "the land" as follows:

1) an office and an artist's studio in an existing building;

2) an accessory parking area providing as follows:

   a) parking directly off a lane;
   b) 3 parking spaces;

3) a building addition, deck and balconies providing as follows:

   a) no south side yard;
   b) a height of 32.5 feet (9.91 metres);
   c) a lot coverage of 46%;

subject to the following conditions which the Board of Adjustment considers necessary to ensure compliance with (a), (b) and (c) above, namely:

1. That Part 1 of the Variance granted by this order shall terminate on June 30, 2004, or at such time as the property is rezoned for commercial use.

2. That, if any Variance granted by this Order is not established within two (2) years of the date hereof, this Order, in respect of that Variance, shall terminate.

THIS ORDER IS SUBJECT TO ALL BUILDING, HEALTH OR OTHER REGULATIONS PERTAINING TO THE LAND HEREIN REFERRED TO.

DATE OF ORDER: June 4, 1999.

CERTIFIED BY:

W. M. Gulenchyn

Wayne Gulenchyn,
Secretary to the Board

HOW TO APPEAL

You may appeal against either the whole of this order or part(s) of it by filing a letter of appeal. This appeal will be heard by the Standing Policy Committee on Property and Development. That letter must:

(a) be addressed as set out below,

(b) be received at that office not later than 4:30 p.m. on June 18, 1999, [IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]

(c) refer to Variance Order No. DAV 289/99C, give brief reasons and describe whether you appeal the whole order or only part(s) of it.

. . . . /3

You can attend the appeal hearing and speak on issues raised in someone else's appeal, but the appeal committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address: City Clerk
City of Winnipeg
c/o 5th Floor
Dynasty Building
180 King Street
Winnipeg, Manitoba
R3B 3G8
[FAX 986-6634 - please follow up
with the original of any faxed
letter of appeal]

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

IN SUPPORT:

Pat and Don Courtnage,

IN OPPOSITION:

Nil