Agenda – Council – January 27, 2016

Report – Executive Policy Committee – January 20, 2016

Item No. 4 Rezoning – 177 Eugenie Street
(St. Boniface Ward)
File DAZ 229/2015 [c/r DAV 168799/2015D]

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 20, 2016, the Executive Policy Committee concurred in the recommendation of Riel Community Committee and submitted the following to Council:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the planned area as shown on Schedule "A" for File DAZ 229/2015 dated December 10, 2015 to a "C1" Commercial Neighbourhood District, subject to the following:

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

        i. That in the event that the existing building is demolished or destroyed and future development is proposed, said development shall:
            a. have a minimum interior side yard (west side) setback of 10 feet;
            b. have a minimum front yard (south) setback of 15 feet;
            c. have the parking area located behind the building and shall not front onto Eugénie Street.

        ii. That the land be restricted as follows:
            a. The following uses shall be conditional on the land:
                1. Neighbourhood rehabilitation homes
                2. Kennels
                3. Restaurants
            b. The following use shall not be permitted on the land:
                1. Contractor's establishments

        iii. That free-standing use identification signs shall not be permitted;

        iv. That flashing, animated, or scintillating signs, rotating signs or beacons and electronic message boards shall not be permitted;

        v. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site.

Report – Executive Policy Committee – January 20, 2016

vi. That no illuminated signage be erected on the north and/or west sides of the building;

vii. That for the redevelopment or new 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 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. In lieu of the dedication of land, the Developer shall provide a cash payment representing 10% of the appraised value of the Development Application, as determined by the City.

3. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two (2) years 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 the two (2)-year period and Council approves the extension.

4. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

5. That the zoning section of the by-law shall come into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject land within one year from the date the by-law is passed, failing which the by-law will expire and 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 the one year period and Council approves the extension.

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 – January 20, 2016

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 20, 2016, the Executive Policy Committee concurred in the recommendation of the Riel Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 11, 2016, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, forwarded the matter to the Executive Policy Committee

RE: **Rezoning – 177 Eugenie Street**
File DAZ 229/2015

For submission to: **Executive Policy Committee**

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

Report date: **January 12, 2016**

COMMUNITY COMMITTEE RECOMMENDATION:

On January 11, 2016, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the planned area as shown on Schedule "A" for File DAZ 229/2015 dated December 10, 2015 to a "C1" Commercial Neighbourhood District, subject to the following:

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

        i. That in the event that the existing building is demolished or destroyed and future development is proposed, said development shall:
            a. have a minimum interior side yard (west side) setback of 10 feet;
            b. have a minimum front yard (south) setback of 15 feet;
            c. have the parking area located behind the building and shall not front onto Eugénie Street.

        ii. That the land be restricted as follows:
            a. The following uses shall be conditional on the land:
                1. Neighbourhood rehabilitation homes
                2. Kennels
                3. Restaurants
            b. The following use shall not be permitted on the land:
                1. Contractor's establishments

        iii. That free-standing use identification signs shall not be permitted;

        iv. That flashing, animated, or scintillating signs, rotating signs or beacons and electronic message boards shall not be permitted;

        v. That there shall be no advertising signs, mobile signs, poster signs and A-frame signs on the entire site.

vi. That no illuminated signage be erected on the north and/or west sides of the building;

vii. That for the redevelopment or new 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 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. In lieu of the dedication of land, the Developer shall provide a cash payment representing 10% of the appraised value of the Development Application, as determined by the City.

3. That in the event the matter is not proceeded with expeditiously and the by-law is not passed within two (2) years 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 the two (2)-year period and Council approves the extension.

4. That the Director of Legal Services and City Solicitor be requested to prepare the necessary by-law in accordance with the above.

5. That the zoning section of the by-law shall come into force when the Zoning Agreement is registered in the Winnipeg Land Titles Office by caveat against the subject land within one year from the date the by-law is passed, failing which the by-law will expire and 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 the one year period and Council approves the extension.

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.

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

1. The use is consistent with what’s been going on the last number of years
2. The use is being updated will likely have less of an impact on the neighbouring community.

PUBLIC HEARING SUMMARY

File: DAZ 229/2015

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

Public Hearing: January 11, 2016
Council Building, 510 Main Street

Applicant: Nicolae Pavel

Subject:



Premises Affected: 177 Eugenie Street

Exhibits Filed:

1. Application dated November 6, 2015
2. Notification of Public Hearing dated November 16, 2015
3. Manitoba Status of Title 2169582/1
4. Letter of authorization dated November 2, 2015 from Sumi Pavel to Nicolae Pavel
5. Surveyor's Building Location Certificate and sketch
6. Plans (2 pages)
7. Revised Report from the Urban Planning Division dated December 10, 2015
8. Inspection Report
9. Recording of Representations of public hearing held on January 11, 2016

REPRESENTATIONS:

In Support:

Nicolae Pavel
Kevin Lalor

In Opposition

Nil

For Information:

Nil

For the City:

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

Exhibit “7” referred to in File DAZ 229/2015

REVISED ADMINISTRATIVE REPORT

Title: DAZ 229/2015 – 177 Eugénie

Issue: For consideration at the Public Hearing for a proposed rezoning at 177 Eugénie Street.

Critical Path: Riel Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council as per the *Development Procedures By-law* and *The City of Winnipeg Charter*.

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Smith	N/A	N/A	

RECOMMENDATIONS

1. That the Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the planned area as shown on Schedule “A” for File DAZ 229/2015 dated December 10, 2015 to a “C1” Commercial Neighbourhood District, subject to the following:

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

        i. That in the event that the existing building is demolished or destroyed and future development is proposed, said development shall:

            a. have a minimum interior side yard (west side) setback of 10 feet;

            b. have a minimum front yard (south) setback of 15 feet;

            c. have the parking area located behind the building and shall not front onto Eugénie Street.

        ii. That the land be restricted as follows:

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                3. Restaurants

            b. The following use shall not be permitted on the land:

1. Contractor's establishments

iii. That free-standing use identification signs shall not be permitted;

iv. That flashing, animated, or scintillating signs, rotating signs or beacons and electronic message boards shall not be permitted;

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vi. That no illuminated signage be erected on the north and/or west sides of the building;

vii. That for the redevelopment or new 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 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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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.

REASON FOR THE REPORT

- The applicant is proposing to rezone from the R2 – Residential Two-Family zoning district to C1 – Commercial Neighbourhood zoning district to permit the establishment of office type use on the subject property.

IMPLICATIONS OF THE RECOMMENDATIONS

- If the recommendations of the Planning and Land Use Division are concurred in, the land will be rezoned from an R2 district to C1 district, which will permit local-scaled commercial development on the site.

HISTORY

DAZ 209/2010 & DAV 10-117903D

- In 2010, the applicant was approved under DAZ 209/2010 to rezone the land from R2 to C1 with the same associated variances that the applicant is seeking under this variance application.
- The applicant is required to resubmit for both the rezoning and the variances because the previous rezoning application lapsed and did not come into force and effect, which was a condition of approval of the previous variance application (DAV 10-117903/D).

DAV 10-111154/C

- On April 9, 2010 the Board of Adjustment granted Variance Order DAV 10-111154/C to vary the "R2" District use regulations and dimensional standards of the Winnipeg Zoning By-Law No. 200/2006 that allowed for a change of use for a period not to exceed five (5) years to permit the establishment of an office use, and for the establishment of an office use to permit no additional parking instead of four (4) additional spaces. This variance allowed the applicants to move from their main floor residence within the two-and-a-half storey building and lease the main floor to the Federation des Associations de Juristes d'Expression Francaise de Common Law Inc. (FAJEF). Conditions of variance DAV 10-111154/C required that the variance be established in three (3) months and that the variance will terminate two (2) years from the date that the variance order was granted.

DCU 08-147249/C & DAV 08-147251/C

- On November 5, 2008, the Board of Adjustment granted a conditional use order (DCU 08-147249/C) to permit the establishment of a Library (Resource Centre) use on the subject property. This conditional use has allowed the Federation Provinciale des Comites de Parents (FPCP) to operate their library, which provides French language books, DVD's and games to the community. The resource component known as Centre de Resource Educatives a l'enfance (CREE), functions as a French community recreation centre offering a facility where parents and children can play and read within a French Cultural Heritage atmosphere. The library/resource operation has approximately 7 staff members on site. Typically users arrive in small groups during the hours of operation between 8:30 am and 4:30 pm Monday to Friday.
- In conjunction with the conditional use order granted on November 5, 2008, the Board of Adjustment also granted associated variances (DAV 08-147251/C) for the Library (Resource Centre) that permitted no additional parking spaces, and the maintenance of an accessory parking area that allowed parking spaces with a length of 15.8 feet (4.82 metres) and parking spaces in the front yard.
- The application for the parking variances included a letter of authorization from the owner of 275 Taché Avenue allowing the library/resource centre the use of 6 parking stalls.

Non-conforming approach (2007)

- In September 2007, the subject property was approved for a non-conforming front approach by the Riel Community Committee.

CONSULTATION

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

SUBMITTED BY

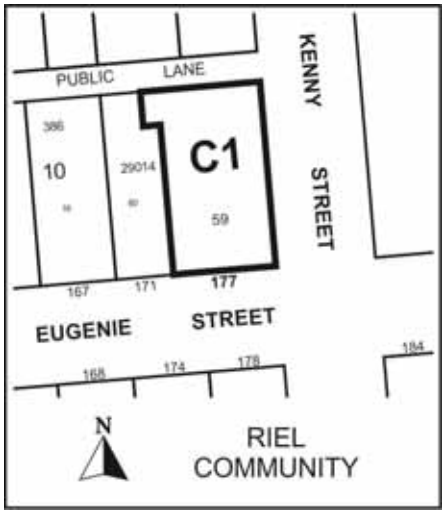
Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Richard Mahé, MCIP
Date:	December 10, 2015
File No.	DAZ 229/2015

List of Schedules and Attachments

1. Appendix A — Planning Discussion
2. Schedule "A" — Recommended File No. DAZ 229/2015 Riel Community Committee, dated December 10, 2015

APPENDIX 'A'

DATE:	December 10, 2015
FILE:	DAZ 229/2015
RELATED FILES:	DAV 15-168799\D
COMMUNITY:	Riel Community
NEIGHBOURHOOD #:	5.513
SUBJECT:	To rezone the land from an "R2" Residential Two-Family District to a "C1" Commercial Neighbourhood District to allow for some commercial uses on the subject property.
LOCATION:	177 Eugénie ST
LEGAL DESCRIPTION:	LOT 59 PLAN 29014 89 ST B



APPLICANT: NICOLAE PAVEL
214 BERTRAND ST
Winnipeg , Manitoba R2H 0N6

OWNER: NICOLAE PAVEL
214 BERTRAND ST
Winnipeg , Manitoba R2H 0N6

RECOMMENDATION: Approval with Conditions

SITE DESCRIPTION

- The subject property is located on the northwest corner of Eugénie Street and Kenny Street in the Norwood East neighbourhood of the St. Boniface Ward.
- The property is zoned “R2” Residential Two-Family and is approximately 9,562 square feet in area.
- The main floor of the building is 3,285 square feet in area.
- Adjacent properties include a mix of single-family residences and multi-family units.



Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2014)*

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The intent of the applicant is to rezone the property from R2 to C1 for office type uses. One of the office spaces will function as a library for parents on educating their children with an occupancy of 10 persons for the lower level (approximately 5,700 square feet). The second office, located on the main floor (approximately 3,800 square feet), will be for a consulting firm for special needs people with an occupancy of 7 person.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- Under the *Complete Communities Direction Strategy* the proposed development is located in the Areas of Stability – Mature Communities. Key relevant policies guiding commercial development within Areas of Stability include the following:
    - Support a mix of commercial services and employment uses that serve the local community (p.80)

LAND USE BY-LAW

Zoning

- The building on the subject property contains a library (resource centre), which was established as a conditional use, and now contains an office, which was permitted as a temporary use not to exceed a period of two years. Under Zoning By-Law 200/2006, offices are not a permitted use in the R2 zone. Both offices and libraries are permitted in the C1 zone.

Variances

- The existing building has a 1 foot separation distance or setback from the western (side) property, which is zoned R2. Under Zoning By-Law 200/2006 developments in commercial zones require a 10 foot side and/or rear yard when commercially-zoned properties abut the side or rear lot line of an R1 or R2 zoning district.
- Under Zoning By-Law 200/2006 the library and office would require a total of 8 on-site parking stalls. There are currently 3 parking stalls on the site. The applicant is not proposing to develop additional parking stalls.

COMPATIBILITY WITH THE SURROUNDING NEIGHBOURHOOD

- The subject property is located on a corner.
- The surrounding neighbourhood is comprised of a mix of housing types with commercial properties along established commercial streets such as Marion and Goulet Street.
- The predominant land use along Eugénie Street between Taché Avenue and Kenny Street is residential. However, there are commercially-zoned properties on the corner of Taché Avenue and Eugénie Street that face Taché Avenue. These commercial properties form part of a longer, consistent stretch of commercial development along Taché Avenue that begin at Goulet Street and end at Enfield Crescent and St. Mary's Road.
- There are no commercially-zoned properties that front onto Eugénie Street between Enfield Crescent and St. Mary's Road.
- Besides Marion and Goulet Street (the established commercial streets in the area), there are two commercial properties along Kenny Street between Dollard Boulevard and St. Mary's Road. These two properties are located on the corner of St. Mary's Road and Kenny Street.

- In the greater area, there are a number of properties zoned C1 that do not help form a longer consistent stretch of commercially-zoned properties. The most notable example is located at the northwest and southwest corner of the Dubuc Street and Rue Des Meurons where there is a small cluster of properties zoned C1 that are surrounded by properties zoned R1 or R2. Another example closer to the subject property is located at the southeast corner of Taché Avenue and Kitson Street where there are two properties zoned C1. These properties front onto Kitson Street and are predominantly surrounded by properties zoned R2.
- Over the past number of years, the subject property has functioned as a dance hall and/or private club, which may be seen as more disruptive uses to the neighbourhood than the office and the existing library.
- The C1 zone is intended to allow for commercial development that is compatible with residentially-zoned properties. As such, this zone is the most restrictive commercial zoning category in terms of the uses and the form of development permitted. However, there are some uses permitted in the C1 district that should either be conditional or not permitted on this particular site due to the predominantly residential character of the immediate surrounding area. These uses are:

  Conditional

  - Neighbourhood rehabilitation homes (these are conditional uses in most residential zones)
  - Kennels
  - Restaurants

  Not Permitted

  - Contractor's establishments

PARKING & ACCESS

- The subject property is near major transit routes and there is available on-street parking on Eugénie Street and Kenny Street. These factors should help alleviate and accommodate the minor parking demands anticipated for both the office and library uses and the majority of developments that could develop on this site under the C1 designation. Further, the applicant has an existing agreement with the owner of 275 Taché Avenue allowing the library/resource centre the use of 6 parking stalls at 275 Taché Avenue.

SITE DESIGN

- The applicant is not proposing changes to the existing building.
- The Planning and Land Use Division is recommending conditions within the zoning agreement that will control signage and form of development to help ensure that future development on the site is suitable for the neighbourhood.

RECOMMENDATION

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

- The subject property has previously functioned as a dance hall and/or private club in the neighbourhood for many years prior to this application. Both of these uses can be seen as more disruptive than the current uses (library and office) and potential future uses that would be permitted on the site under the C1 designation.
- The subject property is near major transit routes and there is available on-street parking on Eugénie Street and Kenny Street. These factors should help alleviate and accommodate the minor parking demands anticipated for both the office and library uses and the majority of developments that could develop on this site under the C1 designation. Further, the tenant has an existing agreement with the owner of 275 Taché Avenue allowing the library/resource centre the use of 6 parking stalls at 275 Taché Avenue.
- Restricting signage, uses and the form of future development through the zoning agreement helps to ensure that development on the site will be compatible with neighbouring properties.

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

Report Prepared By: Richard Mahé, MCIP
PPD File # DAZ 229/2015

Schedule "A" for File No. DAZ 229/2015, Riel Committee, dated December 10, 2015

By-Law No. _____

File No. **DAZ 229/15**

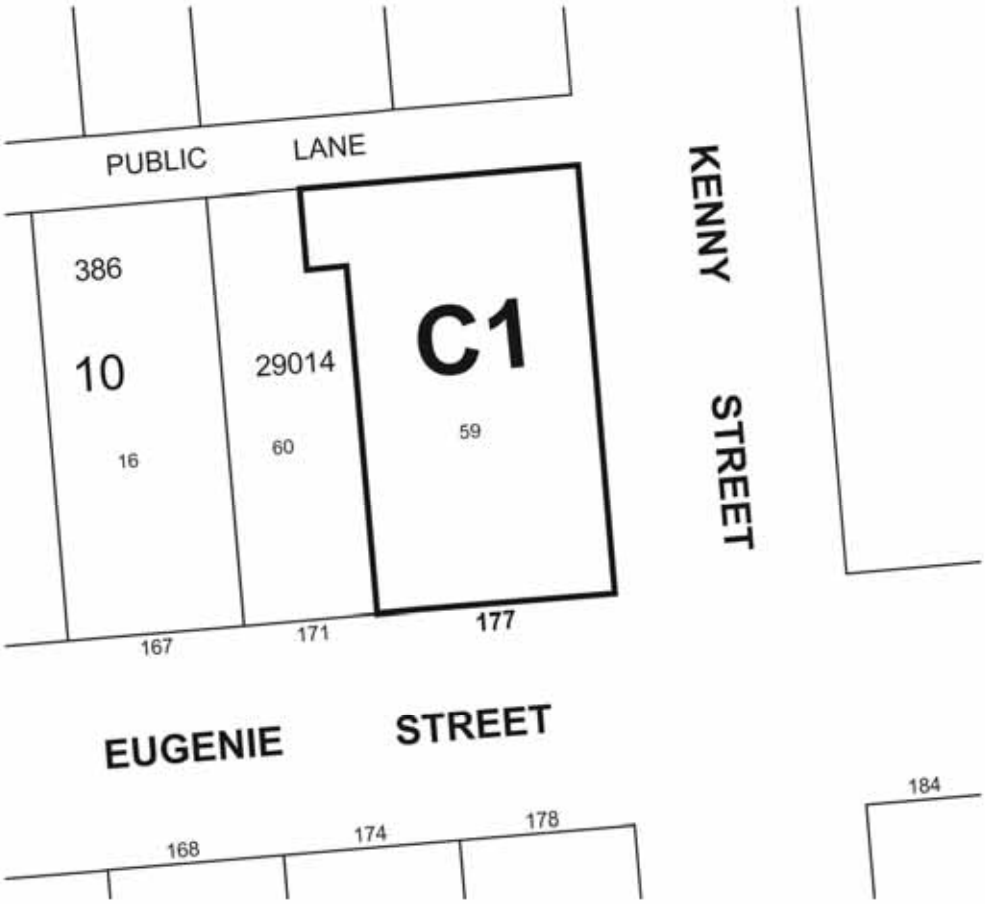
Atlas Sheet No.

N

AB26
RIEL
COMMUNITY

Explanation

A proposed zoning change to By-law No. 200/2006 by rezoning the land located at 177 Eugenie Street from an "R2" RESIDENTIAL TWO-FAMILY DISTRICT to a "C1" COMMERCIAL NEIGHBOURHOOD DISTRICT to allow for the establishment of an office use as shown outlined below.



THIRD READING : _____ EFFECTIVE DATE : _____

ZONING AGREEMENT : YES ☐ NO ☐ CAVEAT No. _____