

Feasibility of a Development Rights
Program as a Planning Tool for the
Preservation of Low Density Structures
in the Fort Rouge Area of Downtown
Winnipeg.

A Thesis

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for the Degree
Master of City Planning

By

Stephen B. Demmings

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FEASIBILITY OF A DEVELOPMENT RIGHTS
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To John Helb of the Legislative Service Agency in Trenton, New Jersey, and Marc Denhez of Heritage Canada, I should like to express my appreciation for suggesting leads and keeping me informed of T.D.R. developments in the United States and Canada.

I cannot forget the residents of Fort Rouge who invited me into their homes and spoke with frankness and candour on subjects personal to them. To them, I extend my very sincere thanks, for without their co-operation the research never would have been possible.

Finally to Linda, who has never lost confidence in me.

TO

Professor Mario Carvalho

PREFACE

The preparation of this thesis has been a stimulating and rewarding experience. T.D.R. philosophy challenges traditional concepts of land ownership and land development. I therefore, do not see overnight acceptance of such programs by the general public unless there occurs a change in societal attitudes toward the "right to develop land".

One very fundamental question permeates this thesis, that is: Is the right to develop land a private right or a public resource? By no one is that conflict more articulately voiced than by the residents of the Fort Rouge area. In the final analysis, I face the same dilemma as do all other investigators of transferable development rights legislation as to the advantages and/or disadvantages of such programs. That is, the proof lies with the political process and the "evidence" furnished by implementation in real world applications.

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"...It has not been a planning practise or an operation of good government for a long time to endorse heartily the right of people to speculate at will at the expense of the rest of the people in the community. It would be fine for me to say that everybody on my block has the right to speculate on their property and the right to increase the cost of housing and the right to build whatever density of housing they so choose. But in fact, that, that very notion was disregarded many years ago when we started having city planning, when we started having zoning, when we started looking at the whole idea of how we wanted our cities to be, for the entire city, not just for those people who happen to be property-owners." 1

Mrs. Judy Kovnats
Fort Rouge Resident

CHAPTER I
INTRODUCTION

A. Objective of the Research

The research shall assume a "solution investigation orientation." The objective is to evaluate the viability of a "development rights proposal" for a designated area in the City of Winnipeg which is facing intense pressures for urban redevelopment.

B. Purpose of the Development
Rights Proposal

The development rights proposal shall be a planning tool to provide economic assistance for the rehabilitation of low-density structures in the area bordered by River Avenue on the north, the rear lane on the south side of Stradbroke Avenue, Wellington Crescent on the west and the back lane east of Gerard Street. Osborne Street forms the eastern boundary for the southern portion of the study area. (See Map 1.)

C. Methodological Procedure

Two sources of information have been used by the author in the preparation of this thesis. Chapters two, three and four have been developed from a review of literature. The purpose of these chapters is to provide the reader with a knowledge of the changing nature of land ownership and land development as a pre-condition for the evolution of the development rights

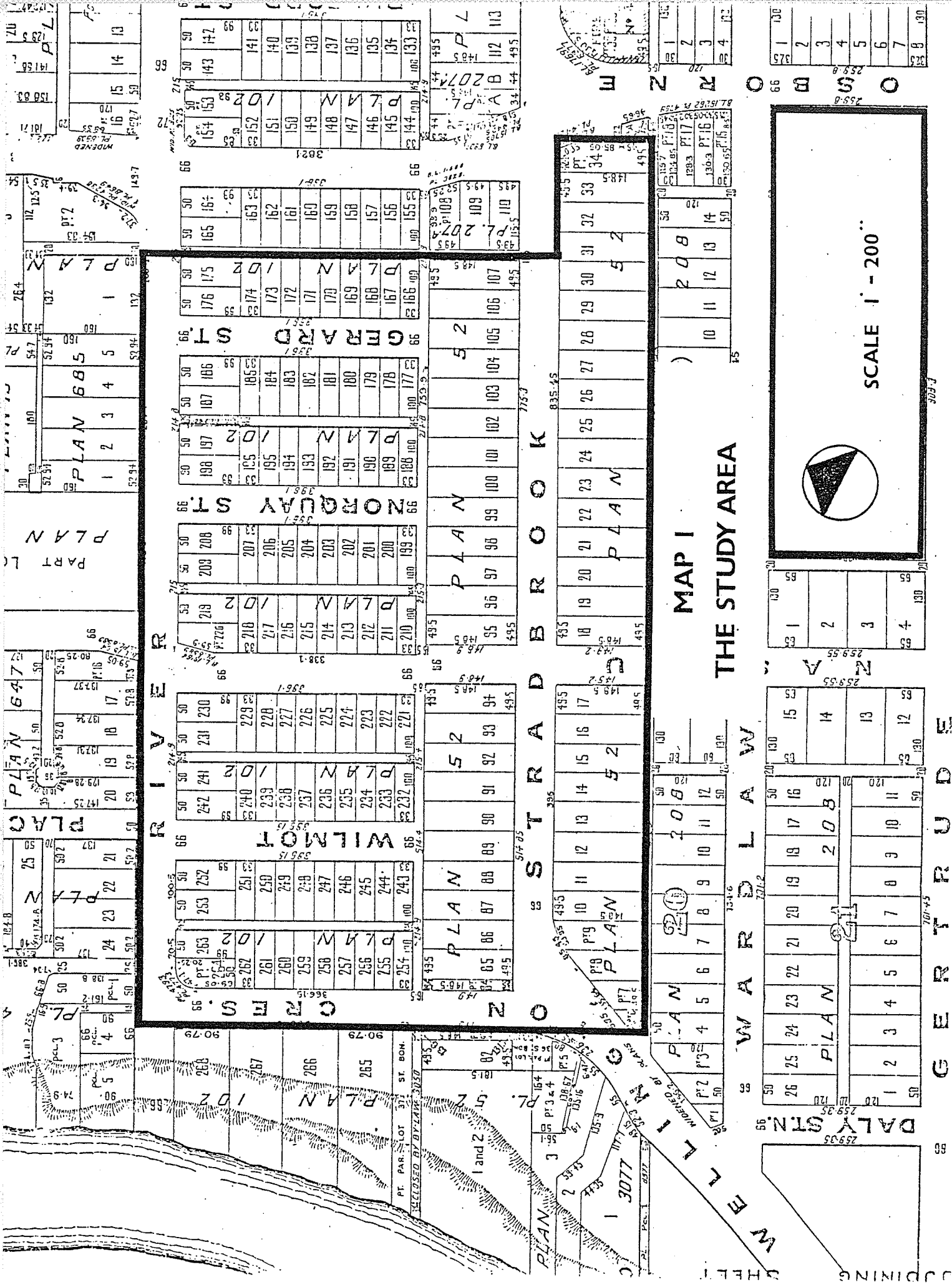
concept in Great Britain and in the United States. Chapters five and six are based upon a personally administered survey undertaken by the author in an attempt to test the feasibility of a transfer of development rights proposal in ameliorating a designated urban problem in a real world application.

D. The Concept of Development Rights

A development right is one of the numerous rights included in the ownership of real estate. For the purpose of this thesis a development right shall be defined as the difference between the density permitted under existing zoning and that which would be permitted under an up-zoning ordinance for a particular land parcel. This difference, when expressed in suitable units such as square feet of building space, cubic feet of building space or stories, constitutes the potential development rights which may be transferred from one individual's property to another in order that the latter may build or redevelop his property to maximum permissible density under the upzoning. Simply stated, the concept of development rights is zoning with built-in mechanisms to redistribute changes in land value (equity) resulting from zoning.

E. Effects of Land Use Legislation Upon Equity

The following hypothetical examples provide a visual aid to illustrate the discussion thus far and are used to demonstrate the effects upon equity of a zoning ordinance versus a transferable development rights ordinance for four adjacent owners of low density structures. A number of assumptions must first

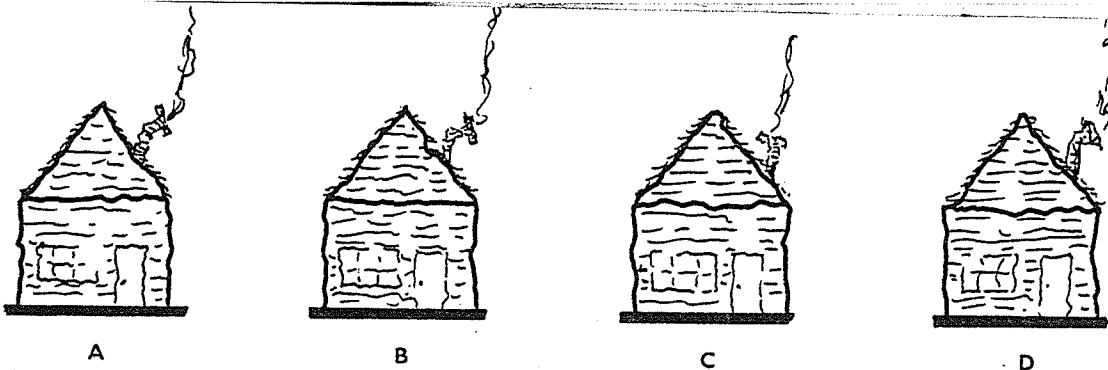


be made....

1. that the four adjacent home owners (a, b, c, d) own properties (land and structure) which are identical in terms of economic value, geographic and physical attributes, property size, etcetera.
2. that the municipality's planning department has proceeded with a zoning ordinance to upzone a's property such that an eight story structure may be erected upon his site.
3. that zoning for b, c, and d's properties is to remain fixed for single family use only.
4. that two development rights are equivalent to two stories of potential building space.
5. that the low density structures are older homes in various stages of deterioration.
6. that the rehabilitation of low density structures is a desirable public objective.

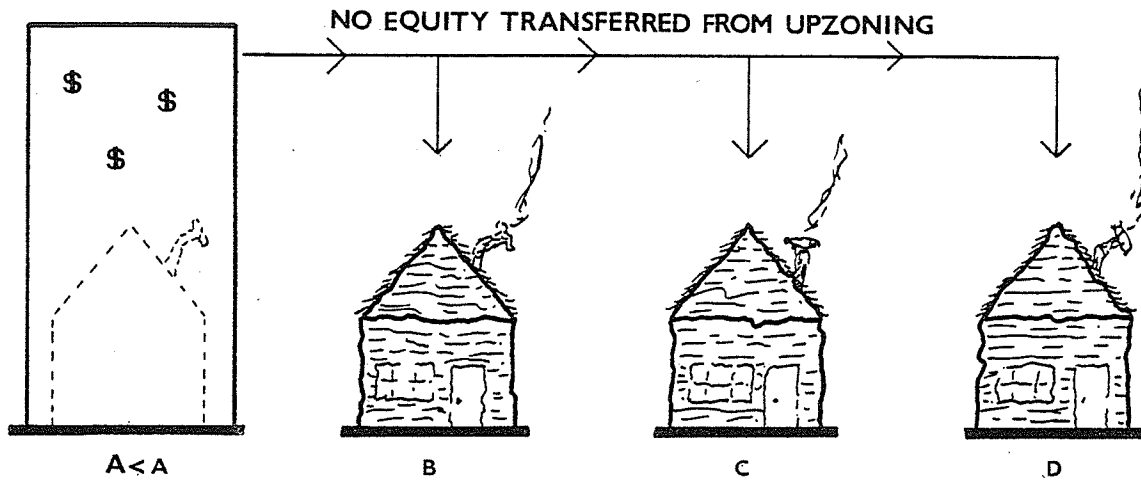
A.

PRESENT CONDITION OF LOW DENSITY STRUCTURES



1. Theoretically each home owner has an equal opportunity with his neighbour to share in the future redevelopment potential of their area through the sale of their respective properties to a developer.

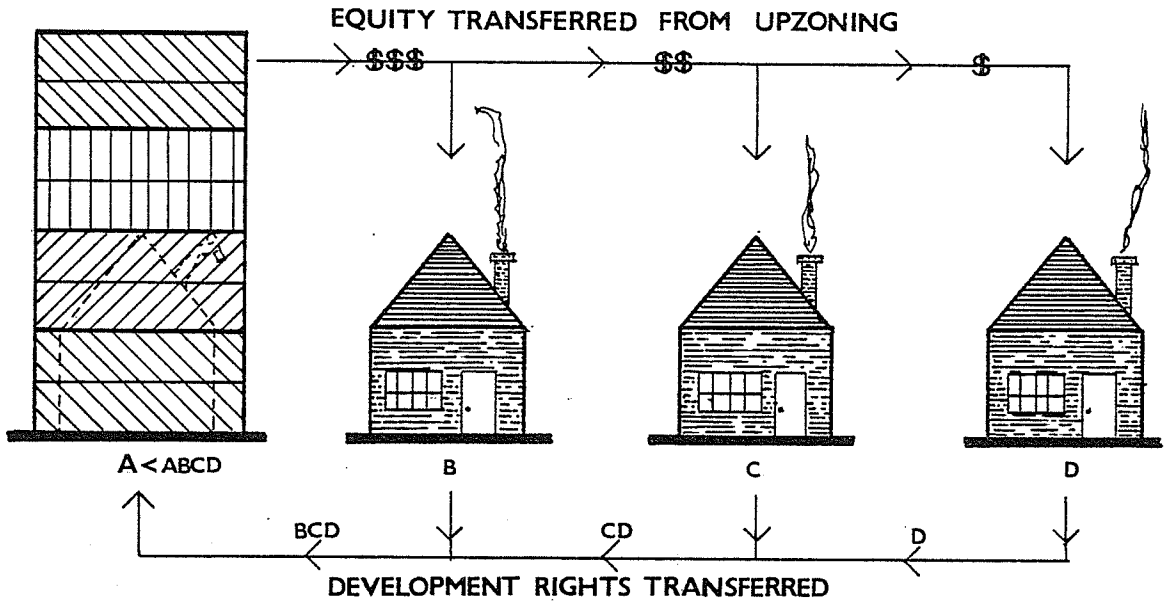
B. EFFECT OF UPZONING



1. Owner "a" as a result of the municipality's upzoning ordinance receives an economic "windfall" by selling his property to a developer.
2. The developer erects an eight storey structure on what was formerly a's property.
3. Owners b, c, and d suffer an economic "wipe-out" relative to a.
4. Owners b, c, and d in addition to their "wipe-out" now suffer from externalities created by an apartment block built on their street.

C.

EFFECT OF A T.D.R. PROPOSAL



1. Under the transfer of development rights ordinance owners a, b, c, and d are each allotted two development rights.
2. To develop to maximum density "A" the developer must compensate owners b, c, and d by purchasing their development rights.
3. Owners b, c, and d now share in what otherwise would have been an economic windfall for "a" under previous zoning legislation.
4. Funds provided by A's compensation payments are used to finance rehabilitation of low density structures b, c, and d.

E. Statement of Preservation Problem

Preservation legislation regardless of the purpose for which it is intended must develop an economic strategy in order that it be politically acceptable. Current land use legislation

has failed to take into consideration the economic consequences of planning decisions. Development rights legislation gives preservation an economic rationale, and thereby makes it more politically palatable.

It is acknowledged that development rights programs applied to areas of an already established urban environment will demand all the integrity, the resourcefulness and the perseverance that our political representatives can muster because the concept is not intended to achieve exact compensation. Development rights cannot be regarded as exact compensation. They are awarded a property owner for the purpose of reducing the severity of a preservation restriction placed upon his land. The issue which emerges is whether or not the loss of development potential experienced on the part of the property owner can be justified in view of the benefits conferred upon society at large? In the study area there has been a never-ending struggle over the preservation issue. The development rights program which is being examined for this area is fashioned after transfer of development rights programs already in existence, but with some notable innovations.

F. Hypotheses

Three hypotheses have been developed to test the viability of establishing a transfer of development rights program for the study area:

Hypothesis 1. For the sake of scientific precision hypothesis 1 will be framed as follows:

It is hypothesized that owner-occupiers of homes in the area bordered by River Avenue on the north, the rear lane on the south side of Stradbrook Avenue, Wellington Crescent on the west and the back lane east of Gerard Street wish to have the existing housing stock preserved. Osborne Street forms the eastern boundary for the southern portion of the study area. (See Map 1)

The first hypothesis has been designed to investigate the present and future investment plans of owner-occupiers of dwellings in the study area. If trends for reinvestment in owner-occupied homes could be detected such an occurrence would indicate an interest in structural preservation. It is of the utmost importance to recognize at the outset that land use preservation measures implemented without a constituency are doomed to failure. In light of the foregoing, the River/Osborne questionnaire was designed to test the residents' attitudes toward preservation vis-a-vis a transferable development rights proposal.

Hypothesis 2. Rejection of hypothesis 2 is tantamount to accepting the positive hypothesis. It is hypothesized that opposition to changes in zoning (made to accommodate the preservation of low density structures) is not expected from affected property-owners.

The second hypothesis has been designed to illustrate the types of problems, issues and questions which may arise and shall have to be confronted by land use legislators as a result of zoning ordinances implemented to accommodate preservation legislation in designated areas of an urban center. Data for

the second hypothesis is based upon a case study of down-zoning which occurred in the River/Osborne District during 1975.

Hypothesis 3. A transfer of development rights proposal will partially compensate:

1. those property owners denied future capital gains because of preservation designation;
2. and those who want to maintain detached area homes (but must now accept densities higher than they would wish in the study area).

The researcher has incorporated a scenario design in order to illustrate the potential for verification of the third hypothesis. It is acknowledged that this hypothesis will only be validated by actual implementation of the transferable development rights proposal and by the concept proving itself through standing the test of time in the market place.

G. Approach of the Development Rights Proposal

The development rights proposal as outlined herein differs from other applications attempted thus far in the United States and Great Britain in:

1. the type of problems it has been designed to address
 - a) to provide economic assistance for the rehabilitation of low density structure in a centre city neighbourhood
 - b) to compensate those who oppose and those who support preservation legislation in their area.
2. the method by which development rights are valued and marketed.

a) a sliding scale for the sale of development rights is advocated where the value of rights decreases with lineal distance from the upzoned area.

3. the emphasis placed upon "transfer boundaries" is designed to heighten the reader's awareness of the difficulties and importance of establishing such configurations in an already established urban environment.

CHAPTER II
CHANGING NATURE OF PROPERTY

Introduction to Chapter II

Chapter II shall deal with the changing nature of property through a brief examination of how the individual's "rights" in relation to property have been attenuated as basic conditions and needs of society have changed. Moreover, the failure to clearly define the private and public right to develop land when coupled with economic redevelopment pressures has resulted in the destruction of many of our urban landmarks.

A. Attenuation of Property Rights

Few issues are more deeply embedded in the Canadian consciousness today than the despoliation of our natural and our human resources. In the United States the concept of "development rights" is becoming a part of the planner's kit-bag, due to the fact that "T.D.R. confronts rather than ignores the economic roots of the resource question."

Before one can analyze the applications of development rights programs that have been attempted to date one must attain an understanding of the changing nature of land ownership.

Cujus est solum yus est usque ad caelum
et ad infernos. (To whomsoever the soil
belongs, he owns also to the sky and to
the depths.)

This ancient concept of land ownership has undergone

dramatic change in modern times. In Canada to the present day, land continues to be vested in the Crown, "as absolute and ultimate owner". "Ownership" of title to a piece of land gives the owner a bundle of rights which are:

--the right to possess and use the land
--the right to the income from the land
--the right to deal with the land in the sense of transfer the title, put up the title as security, etc." 2

Chapter III shall elaborate upon the significance of "bundle of rights" as it relates specifically to "transfer of development rights programs".

1. "There Have Always Been Restrictions On Ownership Rights."...

The modern attitudes of Canadians toward real property were formed during the Colonial era when there appeared to be an unlimited amount of land available for development. Fee simple was used to define land ownership. Ownership gave the purchaser the right to do whatever he wished with his land, except that which the governments of the day told him not to do. Once the early Canadian settler had received title to a parcel of land he was free to construct houses or stores upon it, farm it, or simply hold it as an investment. The historical reality is that there have always been restrictions.

With increasing industrialization and urbanization the owners of property have been compelled to comply with various stipulations regarding their property.

Restrictions on land use may take many forms; covenants, easements, zoning and building regulations, etcetera.

2. Effects of Technology

In spite of the apparent novelty of the T. D. R. concept the right of land ownership can and has been differentiated from other rights and subjected to government scrutiny, or sold by the owner and separately transferred. Before the advent of transportation technology, the individual theoretically owned his land from the centre of the earth to the heavens. The theory of "layered space" or "air rights" potential emerged at the beginning of this century when railroads exercised their right to sell space over tracks for commercial, industrial and other uses. The advent of air transportation further accentuated the need for a clear definition of the individual's ownership of air space.

3. Judicial Decisions

A recent judicial decision (*Lacroix vs. The Queen*)³ judged that an owner owned as much air above as he could occupy...in connection with the land.

The Air Space Titles Act - S. B. C. 1971 C.2 elaborates further on the potentiality of layered space and:

"allows an owner in fee simple to subdivide his land into volumetric parcels for the purpose of lease, sale, etc." 4

Such examples are particularly significant in that:

1. they represent instances of separation of rights from the land to which they are attached
2. they define the limitations of "ownership".

Governments have been empowered to purchase the right to use portions of an individual's land as a throughfare in road

construction where the costs of bypassing the property have been prohibitive. The affected owner would be awarded compensation payments by impartial determination. Such cases, where the owner's exclusive right to property has been overruled because of the beneficial effects conferred on the community is a doctrine that has been upheld by the courts.

4. Easements

Easements are the right to use or restrict the use of land of another individual in some manner and are usually arranged by contract. Right of way, right to light and the right to create a nuisance are some examples of easements. Easements may be created by judicial order, by statute, by implication of law or by "prescription".⁵

B. The Economics of Urban Preservation

The downtown cores of our urban centres are constantly undergoing changes from lower-density to higher-density uses in the continuing search for greater and more profitable economic returns to the land. The role of economics, which is at the heart of urban pressures for development and redevelopment has been given inadequate attention by urban planners. Attempts to preserve "centre-city neighbourhoods" are doomed to failure unless they come to grips with the role of economics as it manifests itself in pressures for redevelopment. If preservation of low density dwellings in a centre-city neighbourhood is considered to be a desired public objective then we must break the tradition of either/or thinking, that is either low-density

structures are preserved or they are replaced by "economically" more productive uses (high density).

The principal reasons for the high death rate of heritage buildings, centre-city neighbourhoods, etcetera are:

1. these amenities have outlived their usefulness not in terms of their physical but their economic lives.⁶
2. many are situated in the downtown core, the very location in which new buildings need to be located.

Land has not been viewed as a resource, but as a commodity from which the owner has been permitted to maximize economic benefits subject only to public regulation. The public sector although it possesses powers to control and direct the use and development of land is commonly faced with two constraints. It is alleged that economic development and growth should not be discouraged; that too many public regulatory measures will not encourage development by the private sector. Secondly, there exists the ever-present threat that the private sector will resort to legal action against the public sector for what are felt to be violations against their "individual rights to redevelop". This view has been expressed by Adele Chatfield-Taylor.⁷

1. Private and Public Value Systems

The public and private sectors, because they are adhering to different value systems are antagonists, not partners in the redevelopment of centre-city neighbourhoods. The public and private spheres are subjected to a process in which they must labor through complex bureaucratic and regulatory frame-

works which have consistently failed to come to terms with the underlying force responsible for developing and redeveloping our urban landscape - private economic self-interest.

2. Factors Determining the Cost of Preservation

The cost of any preservation measure depends largely upon:

1. the size of the structure(s) to be preserved and the replacement buildings which could be accommodated on the site(s).
2. the rate of return on investment of the preserved structure(s) in comparison to the replacement building(s) which could be accommodated.

Important determinants of the cost question are four underlying criteria:

- a. lot size(s)
- b. zoning
- c. geographical location, and
- d. current market demand for urban space.

Each of these factors are reflected in pressures brought to bear for the redevelopment of our urban landscape. Together, they form a volatile force in contributing to the high attrition rate of heritage buildings.

a. Only recently have lot sizes come to play a role of increasing importance in relation to the preservation of urban low density structures. It has become critical because of the advent of the "zoning bonus system" which has become an established part of land use legislation in many of our urban centres across Canada. Simply stated, a bonus system is one in which the city agrees to allot to developers additional floor area ratios (F. A. R.) in exchange for increased increments of open space usually made possible by building structures

further back from the streets on which they front. However this type of legislation has had the negative effect of encouraging the assimilation of small land parcels into larger land parcels in order that the "bonuses" can be exploited more profitably by the developer. The rationale for this procedure originates from the fact that tall, narrow structures would ordinarily result from the setbacks that would be accommodated from small land parcels and a high percentage of interior space would have to be dedicated to items which were non-revenue producers, that is, stairways, elevators, etcetera.

b. In a market that is characterized by on-going construction activity the effect of zoning on the costs of preservation restrictions may be summarized as follows: the greater the zoning codes, density allocations, etcetera, the greater are preservation restriction costs. This is a critical relationship, one which is all too frequently not fully understood by governments of the day for it is not the autonomous force of the market place which in itself is destroying our urban landmarks. The reality of the situation is that decisions of governments are as responsible for the destruction of these landmarks as are the activities of the market place. Developers, as rational investors are seeking to maximize the return on their investment (economies of scale). As such, this means building to maximum densities and often times means the destruction of many of our urban landmark structures.

c. Real estate market values are determined in great measure by locational factors. Extremely high costs can be

anticipated for preservation restrictions for buildings located in the central cores of our urban centres. Even within these areas various locations have varying effects upon the magnitude of real estate values as determined by local market conditions. Moreover properties that are located only a block away in these central locations may have widely divergent land values.

d. Given that the supply of core area land is generally inelastic, an active or vigorous demand has the effect of increasing land values and thereby resulting in one of the major criticisms of urban landmark preservation - the loss in potential revenue among property holders between the inflated value of landmark sites and the restricted earning potential of designated landmark buildings. The reverse also holds true. That is, weak demand has the effect of reducing economic pressures for the demolition of landmarks by depressing land values.

e. Of course there are other variables which are important in contributing to the high attrition rate of centre-city, low density structures, that is, vacancy and mortgage rates and the attitudes and expectations of equity holders.

CHAPTER III
REVIEW OF LITERATURE ON THE
DEVELOPMENT RIGHTS EXPERIENCE

Introduction to Chapter III

Chapter III shall:

1. briefly describe the philosophy behind T.D.R. proposals,
2. present a criticism of zoning as envisaged by T.D.R. proponents,
3. highlight the ways in which development rights have been used to date,
4. emphasis shall be placed on the conditions that various proposals were designed to alleviate rather than the actual mechanics of how each functioned,
5. indicate the degree to which each proposal was successful in the purposes for which they were/are intended.

A. Development Rights Philosophy

Development rights are usually the land-owner's most valuable "right". The implementation of land use control illustrates the public's interest in development rights; which we still think of as being private and property-specific. Traditional views concerning the nature of real property are being analyzed in an attempt to develop more effective public land use controls.

The increasing use of government restrictions on land use infer that space is public property and that it is the obligation

of government to restrict the individual's "ownership rights" in the interest of the general public. The public sector, through zoning has reserved the right to tell property owners what they may and may not do with their land. It is endowed with the authority to either give or remove from private owners the "right to develop" their land. The question arises: If public agencies are giving away "economic value" (development potential) does it not have the obligation to employ measures that will ensure the protection of public values such as historic buildings, centre-city neighbourhoods, etcetera? Because the value of urban land is in part a reflection of the community's growth and the services offered by the community, that is, roads, police and fire services, sewers, etcetera, should not the public be entitled to a portion of this unearned increment in land value? As the value of land escalates the public should be endowed with some measure of recapturing that "value" for the purpose of protecting the public's interest from encroachment by the forces of "competition" from private developers. J. S. Mills has used the aphorism that "landlords grow rich in their sleep"⁸ when referring to the "unearned increment" sometimes gained by private property owners as a result of changes in zoning legislation.

What is necessary today is a shift in public attitudes toward recognition of "basic rights" of the public sector in the control of land use. There are many means available for achieving these public goals, some of which are public acquisition, taxation policies, "transfer of development rights". It is theorized that T.D.R. can provide an economically and politically acceptable

means of preserving privately owned land and buildings in the interest of the general public; thereby making public planning much more acceptable. Should the potential of private land development (vis-a-vis development rights) be viewed as a private right, a public resource or as a right that should somehow be divided between the private and public spheres? Does the public's interest in resource preservation (whether it be human or natural) outweigh the individual property owner's right to develop? Many land use regulations are both essential and reasonable in order that other individuals should be permitted to pursue the legitimate enjoyment of their own rights without the fear or threat of injury. Milner states...

"The principle that is at its lowest is that of "live and let live" and advances so as to comprehend all the obligations which according to the social standards of the day are regarded as due to neighbours and fellow citizens. But, as the scope of these restrictions increases by the operation of planning, a stage is reached at which the restrictions imposed will be said to go beyond the claims of 'good neighbourliness' and general considerations of regional or national policy require so great a restriction on the landowner's use of his land as to amount to a taking away from him of a proprietary interest in the land." 9

In summation, the issue which we must confront is this: The market value which is attached to a given property is not only the result of the current owner's efforts. Much of the "value added" is the result of public decisions, public investments and changes in public policy. The degree to which the public has a right to redistribute or share in that "value added" remains the point of contention.

B. Why T.D.R.? Problems With Current
Land Use Controls

John W. Reps in reference to zoning has stated:

"...Zoning served up well during a period when urban life was simple and less dynamic. We should honor those who were responsible for its birth and early care.... But we do these men, and ourselves as well, ultimate honor not by tending their legislative monuments at the end of the by now well-worn legal road they constructed but by carving new trails toward new frontiers to serve an emerging new urban America." 10

Proponents of T.D.R. programs theorize that the failure of our land use system has erroneously been placed upon the planning process rather than the real culprit - the system under which we have attempted to conciliate development forces exerted by the public and private sectors. Can programs of transferable development rights redirect this force (between the public and the private interest) to ensure that it be more effectively used for the public's welfare?

Urban redevelopment is a term that has often been referred to as an activity describing the actions of individuals who purchase land, make arrangements for its rezoning to greater density, and then relinquish it on the market to derive the monetary benefits that are to be accrued as a result of increases in property value. Proponents of T.D.R. maintain that such activity would be significantly reduced under a program of development rights. Transfer of development rights programs are being proposed as a supplementary tool for traditional zoning not so much because zoning has failed in its original purpose but that it has disappointed those who once saw it as the creative force to shape the "future city".

1. Section 3 Standard Zoning Enabling Act

The original purpose of zoning as stated in Section 3 of the Standard State Zoning Enabling Act of the United States of America (1926) was:

"Such zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the over crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements." 11

2. Zoning and Contemporary Problems

Fifty years have passed since the conditions existed which led to earliest zoning and subdivision controls. Urban development must be viewed as a dynamic, changing, on-going process, but our land use legislation has lagged behind in providing imaginative, innovative, techniques to deal with new sets of problems which now plague our urban centres, problems which are quite different from those which originally gave rise to police power controls in the United States and in Canada.

Zoning has not dealt effectively with contemporary problems of physical redevelopment. New techniques must be created to make land use regulations more flexible and to ensure that particular redevelopment proposals are treated more individually with a heightened concern for their effects upon the community as a whole.

3. Zoning is Negative

Zoning was initiated as a negative regulatory measure to

control land use and the intensity of development. The philosophy which guided its use in earlier days differs from today's concept of development and redevelopment with its positive implications.

Zoning was intended to "prevent" the occurrence of incompatible land uses from arising. It was used to "keep out" the undesirable. The zoning by-law in our own province is used to:

"regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of building structures and land for trade, industry, residence, or other purposes." 12

4. Zoning and Equity

Zoning does not treat people uniformly. It has in fact tended to provide tremendous opportunities for financial gain for individuals owning parcels of land that have been authorized for redevelopment. At the same time zoning may also postpone or prohibit future development of land for some individuals, thus depriving them of financial gain. What often occurs is that for some owners the right to develop tracts of land in a specified way are annihilated - wiped out. On the other hand, in many cases the value of these destroyed rights have in effect been transferred completely free of charge to other landowners whose property was not governed by the same restriction, thus creating "windfall profits" for them. In short, our zoning laws have not been effective because they have not been fair in their treatment of equity.

Zoning, the mechanism that we have employed as a planning

tool in guiding the development and redevelopment of our urban landscape has too often fallen into the hands of special interest groups. Its use as a tool for land use planning has been likened to "the operation of government by the natural ascendancy of the aristocracy". The principal benefits in terms of equity have been accrued by the haves at the expense of the have-nots.

Where there is a demand for land, the principal determinants of land value are zoning and the location of public facilities (paid for by the taxpayer). Laying aside geographical and soil conditions for the moment, all land in our cities and suburban regions is basically similar in terms of development potential. But...

"How often have you seen the planner unveil his colorful map? Red represents high intensity uses, yellow, single-family uses, and green the open space. What the planner doesn't bother to tell you is that when he paints the land red..., \$90,000 an acre is a reasonable asking price; where he paints it yellow, the land depreciates to \$13,000 an acre; and where he paints it green, the real estate assets are relatively cheaper. The name of the game in real estate is maximizing the profits on land - get a little yellow, and a little green and convert it all to red." 13

In our central cities we are rezoning in increasing intensity and increased density on a piece meal, ad hoc basis, without due concern or understanding of economics or control of overall land use.

5. The Domino Effect

A similar type of situation has occurred in the River/Osborne District of the City of Winnipeg. The prevailing use of "spot zoning" has resulted in increasing numbers of units permitted on an acre of land. Examples of this are Fifty-Five

Nassau, Evergreen Place, etcetera. All it takes is one bad piece of zoning legislation introduced into an area; all that is necessary is one very high return use that has not been given adequate "planning" attention; and a domino effect is set in motion. This phenomenon is often referred to as "changing neighbourhood character".

6. Overzoning, Downzoning and Development Rights

The T.D.R. concept is not without its weaknesses. In many cases zoning may not reflect economic reality (the use to which land would be dedicated assuming that there were conditions of "perfect information" and man was rational). Planning can exert its effect upon reality by deciding the location of services and infrastructure, particularly transportation routes. Zoning will not alter this condition. In cases where overzoning exists, T.D.R. will result in overcompensating the landowner. As such, he may exercise his option to sell rights in order to do elsewhere what he could not have persuaded any rational developer to do on his site. Underzoning, similarly would mean that the owners would derive less revenue than they are entitled. Proponents of T.D.R. theorize however, that this is still the best course of action open to us when confronted with our past history of attempting to plan with zoning.

7. Summation

In summation zoning has failed to create sound development and redevelopment in our urban centres with increasing inequities and inequalities owing to the windfall-wipeout phenomenon. Proponents of transferable development rights programs

theorize that some of these inequities can be alleviated through the sale of development rights. T.D.R. offers cities the opportunity to develop in certain areas while limiting the development possibilities in other districts. By so doing, it is theorized that urban centres shall be endowed to a much greater degree to control their developmental growth. Areas of the city that are sensitive to pressures for development must be identified and areas that are capable of absorbing additional densities in terms of municipal services must be delineated before transfer schemes are envisaged.

The ideal conditions for enactment of a Transfer of Development Rights scheme would be a location in or near the urban core in which:

1. there are lots that are readily available for redevelopment.
2. the zoning does not permit the greatest density that municipal services could handle.
3. is characterized by increasing land values. (Transfer schemes can only be implemented in times of intense market activity and escalating land price. In a depressed market there is no threat to centre-city neighbourhoods or historic buildings and there would consequently be no demand for the development rights.)

C. The British Development Rights Experience

1. Conditions Leading to Consideration of British Development Rights Legislation

"The gist of the matter is...that the purchase and/or the possession of land with a view to township development should not in any way be construed as affording the owner any automatic right to the proclamation of his property for such development." 14

Because of its early history as an industrialized nation, its rapid population growth and its limited land mass the pattern

of growth which emerged in England in the eighteenth and nineteenth centuries exerted long-term effects upon the future physical development of England. Restrictions on types and location of future land uses whether it was industrial, commercial or residential were virtually non-existent. Growth which developed was completely unplanned. The end result was unprecedented waste of that country's natural resources. In response to the negative effects upon England's future growth caused by a history characterized by a lack of land use policies, future generations became receptive to the idea of "planning" in the interests of "social well-being". The issue which remained, was the type of planning approach to use. The predicament of having a population of fifty million people living in a land mass the size of Great Britain became a matter of immediate concern.

2. The Housing, Town Planning, Etc. Act of 1909

The Housing, Town Planning, Etc. Act of 1909 was introduced into the House of Commons to:

...provide a domestic condition for the people in which their physical health, their morals, their character and their whole social condition can be improved by what we hope to secure in the Bill. The Bill aims in broad outline at, and hopes to secure, the home healthy, the house beautiful, the town pleasant, the city dignified and the suburb salubrious. 15

The Act of 1909 had its greatest significance in that:

1. it was now acknowledged that development exerted an effect upon surrounding areas
2. it was recognized that the interests of the individual landowner could not be seen in isolation from those of his neighbour.

While the legislation acknowledged the conflict which

existed between the private and public sectors in terms of land development it failed to resolve the issue. The theme of private and public rights which the Act addressed was however to have profound effects upon the design of subsequent British Planning Legislation.

3. The Housing, Town Planning, Etc. Act of 1919

This legislation was designed to iron out the difficulties inherent in the 1909 legislation. The concept of "interim development" was introduced into the Act. This measure safeguarded the developer by agreeing to pay him compensation in the event that the implementation of a "town planning scheme" injuriously affected him.

The legislation was important for two reasons:

1. once again it attempted to resolve (without success) the conflict between the public and private spheres of interest.
2. it acknowledged the importance of the "compensation issue" in the resolution of these conflicts.

4. Town & Country Planning Act 1932

The Town & Country Planning Act of 1932 was significant in that:

1. it declared invalid all planning statutes hitherto enacted in Great Britain.
2. it introduced innovative and creative new legislation in British planning law. Unlike previous legislation which limited itself only to undeveloped lands and areas likely to be developed, the 1932 Act now included in their "town planning schemes" those lands currently developed and those lands not likely to be developed.

The 1932 Act was particularly important in that it addressed the issue of betterment, (the increase in value to a given parcel of land as a consequence of government action). It acknowledged

that if government could be held responsible as a result of its actions for having an injurious effect upon one's land value, then so too should the government be entitled to a share of the "value added" to an individual's property as a result of government regulation of land use. The Act went so far so as to state that if the planning authority as a result of planning legislation caused an increase in market value to a property then the state was entitled to share in 75% of that gain.

Because the British planning system to 1937 was one characterized by results that fell far short of legislative expectations British planners acknowledged the need for reform and embarked upon renewed legislative efforts to define the role of planning and planning legislation. Three commissions were organized to:

1. analyze the pattern of physical development which had occurred in England to date.
2. and to study the effectiveness of the planning system as it existed in England at the current stage of evolution.

5. The Barlowe Report - The First Commission

These commissions were important in that they provided the legislative framework for the Act of 1947. "The Barlowe Report" was established to:

1. determine the causes for the existing pattern of industrial land use.
2. determine the direction of future patterns of industrial land use.
3. determine the "social, economic and strategical disadvantages" that were a product of current patterns of industrial land use.
4. determine future courses of governmental action.

It made several recommendations:

1. the establishment of a national body to direct and regulate locations for industry.
2. the restriction of further development in urban areas currently plagued by congestion.
3. the dispersal of industry and population from congested urban centres.

The break-out of the second world war prevented the above recommendations from taking effect. The Barlowe Commission considered the creation of a "National Development Board" whose function would be to acquire the development rights of all undeveloped land in the country. Development on such lands would now occur only with expressed approval of the Board, and rights would be sold by it, to designated developers.

The purchase of the rights was to be made compulsory and would go into effect as of a specified date. The value of the development rights could be calculated as the difference between the value of undeveloped land or the value of land in its existing use and the value of land for development purposes.

Moreover, further study of the proposed recommendations was deemed necessary and the matter was therefore subsequently turned over to an advisory body.

6. The Scott Report - The Second Commission

In 1941 the Committee on Land Utilization in Rural Areas was formed for the purposes of:

1. outlining the conditions which should be used to determine whether building and restructural development should take place in country areas.

The report reaffirmed the recommendation of the Barlowe Report in that it declared that national planning control was essential in order to plan effectively in Great Britain. Further

study and research were recommended.

7. The Uthwatt Report - The Third Commission

The Uthwatt Committee was designed to re-examine the issue of compensation and betterment. The nationalization of development rights was suggested as a possible solution to the compensation-betterment deadlock. The recommendations of the Uthwatt Report included:

1. all land lying outside of existing built-up areas should immediately fall under the jurisdiction of the State.
2. fair compensation would be paid all land owners.
3. all such lands would come under the jurisdiction of the state by imposition of a prohibition against development.
4. the "power of prohibition" would be accompanied by enabling legislation permitting the State to exercise compulsory powers of acquiring land for valid public purposes or approved private development.

Nationalization of development rights in land was designed to confront two issues of concern to the committee:

1. the question of shifting value, and
2. the problem of "floating value".

The shifting value of land arises as a result of public regulations. For example, when a parcel of land is subjected to a development prohibition, neighbouring or adjacent tracts of property may escalate in value. The concept of "floating value" arises in cases where potential development value may "float" over a number of competing sites all of which are equally amenable for development. Each owner has the potential for development to occur on his land but not all owners will see their land developed. Together the concepts of "floating value" and "shifting value" create the windfall-wipe-out phenomenon. The Uthwatt

Committee anticipated that a program of development rights would work in concert with the windfall-wipe-out phenomenon and therefore create benefits for public planning.

In summation the Uthwatt Report recommended that:

1. the State acquire development rights for the land.
2. £3,000,000 be paid in compensation for the development rights.
3. a form of national planning control be adopted for the country.

8. The Town and Country Planning Act of 1947

The Town and Country Planning Bill was introduced by the Labour government in January 1947. The legislation was designed to:

1. repeal all hitherto existing planning law.
2. all future development would be subjected to regulation.
3. all future development had to be approved by local planning authorities.
4. the power of compulsory acquisition was allotted to local authorities.
5. compensation to affected landowners as a result of compulsory acquisition would be calculated on the basis of existing use value rather than potential use value of the affected property.
6. all development rights in land now came under the jurisdiction of the State.

Under the 1947 Town & Country Planning Scheme owners of land who had had their "development rights" expropriated would receive compensation on a once-and-for-all basis. Proponents of the Bill felt that £300,000,000 would be fair and just compensation for the development rights.

Implementation of the Act however revealed problems of application. Difficulties were centered upon:

1. expropriation of the development rights

2. the amount of the compensation fund

Criticisms of the Planning Act centered specifically on the fact that it was "too complicated" to allow any opportunity for further construction to occur. Furthermore, the Act created a climate which required the land market to work effectively but the financial effects were such that the land market was now distorted.

Most of the problems with the Act centered around the issue of a "development charge". Having a development charge fixed at 100% of assessed value left the property owner with no reason to sell his land, as a consequence land did not change hands freely at existing use values. Private enterprise looked with disfavor upon the arbitrary means by which calculations were made on the amounts to be paid in terms of compensation and development charges. The development charge in effect acted as a tax on private enterprise rather than as a measure to recoup unearned increments of value added. A situation was created such that local authorities were empowered to prohibit development they disliked but were in many ways prevented from encouraging development for which they approved.

The nationalization of development rights in particular and the Town and Country Planning Act in general became unpopular in the Nation over the inability of the government to come to terms with the issues of:

1. the complexity of development rights program and
2. the betterment and compensation question.

A change in government in 1951 resulted in Conservative actions repealing:

1. the nationalization of development rights, and
2. the development charge.

Since 1951 various development charges have been initiated and repealed by both the Labour and Conservative governments in Great Britain. Although it did not mark the end of the British development rights experience, it was a major turning point in its development and the end of the period of evolutionary growth examined herein.

D. The American Transfer of Development Rights Experience

The American version of development rights has become prominent in the United States only in the last decade. Referred to as Transfer of Development Rights, the many programs which have since been proposed for various areas throughout the country have attempted to iron-out the problems encountered by British legislators through injecting greater flexibility in their own proposals and by exploring new ways for the concept to be used. The purpose of this section is to illustrate some of these proposals and the problems encountered by them.

1. New York City.

The simplest type of T.D.R. program is that which is used for the preservation of historic or landmark buildings located in the downtown areas of our urban centres. Transfer of development rights has been used as a supplementary tool for zoning in New York City. It has been used as a technique to complement traditional land use tools in the implementation of a city plan. In the aforementioned city the New York Landmarks Preservation

Commission has attempted to conciliate the owners of landmark structures. For example, in cases where landmark designation was a prime concern of the owner the Landmark Commission thought carefully about "designation." It was concerned about possible legal repercussions because of the United States Constitution:

"Nor shall private property be taken for public use without just compensation."

-Article V Bill of Rights

The Landmarks Commission urged the New York Planning Commission to make zoning responsible to the landmark preservation issue. The owner of the landmark property was permitted to transfer the authorized but unbuilt floor area of one landmark site to adjacent lots. The notion of "adjacency" has since been broadened in New York City to permit transfers not only on contiguous or adjacent lots but to permit transfers across city streets.

From a planning perspective the concept is simple. The owner of a landmark structure is given the opportunity to transfer the unrealized potential of that "column of air" on top of a landmark which is a threat to its future life. In so doing the landmark is preserved and the owner does not lose his "development potential." The technique is designed to permit the orderly reallocation of density, but no increase in development is permitted. From a planning point of view, no disallocation will result.

In April 1965 the New York City Landmarks Preservation Law was passed. By April 1974, 414 structures had been designated as landmark buildings, but only one during this nine year period was

saved from demolition. A number of reasons for the dismal success rate of heritage preservation can be cited:

1. There has been insufficient incentive for the preservation of landmark structures.
2. It is felt that development right transfers are an unnecessary tool for preserving landmarks in cases where the planning body has other preservation powers and is willing to use them.
3. The transfer scheme is thought to be too complicated because the planning and approval process for the preservation or reconstruction tends to be time consuming and discourages transfers.
4. In spite of the preservation legislation the designated "landmark" is not guaranteed an unlimited existence. Although the development rights have been severed from the landmark the owner could still destroy the structure and build another of equal bulk because the legislation was not endowed with a restricting covenant.
5. T.D.R. has been attempted only a few times in New York City partially because of the excess supply of office space in the city. In such a market there is no demand for the development rights.

2. The Chicago Plan

The Chicago Plan like the New York Plan was invoked for the purpose of preserving historic or landmark buildings. However it differed from the former in that it totally abandoned the concept of adjacency and opened the development rights transfer to a larger area; the central business district.

Chicago has many large commercial buildings that are held in private hands, that are reaching the end of their economic lives and that are privately operated. Many occupy valuable sites in the C.B.D. and most are situated on land that is zoned for densities greater than the buildings which currently exist on them. According to Chicago landmark law the only compensation required is purchase after landmark designation. Owners feel this is not

just compensation. The Chicago Plan is an effort to come to terms with the compensation issue, to make the economics of preservation more equitable.

Under the Chicago Plan the needs of the owner and the needs of the city are subject to deliberations, these needs are turned into benefits for the involved principles. The owner receives compensation as a result of the designation process through either eminent domain or through negotiations which entitle him to sell or use development rights under controlled conditions.

The Chicago Plan is criticized on the following grounds:

1. Although the Plan would be of great benefit to landmark properties, on the other end of the scale, this could only be at the cost of implanting buildings of greater density in transfer areas. At the same time, however, it is acknowledged that much of Chicago's C.B.D. is currently overzoned, and that downzoning should be implemented to reflect the realities of planning.
2. A second major impediment to implementation of the Chicago Plan rests not with the rationale of the Plan itself but the political climate of which the Plan is a part. There is no public pressure or public interest in the Plan.

"The mayor respects power and power in present day Chicago does not rest with preservationists." 16

3. The New Jersey Plan

Several localities have adopted or are currently in the process of adopting T.D.R. ordinances for the purpose of preserving farmland and open space. These include Suffolk County; Long Island; Saint Georges, Vermont; and the State of New Jersey. The individual forms adopted by the respective governments vary considerably and each is unique onto itself. However the New Jersey proposal is perhaps the most comprehensive among those mentioned.

In order to gain an understanding of the need for efforts to preserve open space in New Jersey a basic appreciation of that

state's urban problems must be ascertained. More than 60 million people live within a 250 mile radius of New Jersey. In recent years there has been an increasing demand for land so that 20% of active farms in the state are now owned by non-farmer landowners testing the market for redevelopment. Fragmentation of municipal boundaries has resulted in 567 planning and zoning jurisdictions which as a result of their numbers has contributed to their loss of effectiveness in controlling development sprawl. New Jersey, the fifth smallest state in the union with 7,500 square miles experiences an annual growth rate of 100 thousand persons/year. As such the foregoing conditions have necessitated immediate revisions of existing land use laws in order to preserve prime agricultural lands and woodlands. The separability and transferability of development rights has therefore been looked upon as a possible means of compensating the owners of undeveloped land in return for its preservation as open space. The future effects of T.D.R. ordinances in New Jersey are predicated upon acceptance of Assembly Bill 3192 currently before the New Jersey Legislature.

One can only speculate as to the possible effects of this T.D.R. ordinance.

1. First, owners of property who have been subjected to preservation restrictions would be compensated by the sale of their development rights to developers.
2. Secondly, the public may recapture portions of the wind-fall profits that currently fall into the hands of those who are successful in attaining variances outside of adopted municipal plans and regulations.
3. The process of attaining open space without overly expensive public acquisitions is now a possibility.

E. Summation of Problems-Issues

The British experience with development rights as exemplified by the Town and Country Planning Act of 1947 and the American experiences to date are essentially similar in one respect. Both involve the active participation of government whether it be on a national or a local and regional scope, into what was formerly a free market in the development of land.

This "intrusion" by British planners under the 1947 legislation had three effects:

1. virtually destroyed future efforts by the private sector to develop.
2. ...as a consequence made the free market inoperative.
3. failed to agree upon the amount of compensation to be paid to affected property owners for their development rights.

T.D.R. applications have been in various stages of application and have been proposed in many different locations throughout the United States and Puerto Rico. Of these, twelve have been in existence since 1971. As a consequence the full potential of transferable development rights as a tool to replace zoning and/or as a tool to supplement zoning cannot yet be fully determined.

Although it is still too early to determine the effects of U.S. intervention into the development rights market, a recent court decision in the State of New York is exemplary of the problems yet to overcome as a result of public involvement in this jurisdiction. The T.D.R. proposal attempted to create a "Special Park District" and rezoned two private parks of a Manhattan residential complex as parks open to the public. Mr. Justice Walternode of the State of New York Court of Appeals declared:

"...unconstitutional and restored the former zoning classification R-10, permitting residential and office building development.
...the City has, despite the severance of above-surface development rights, by rezoning private parks exclusively as parks open to the public, deprived the owners of the reasonable income productive or other private use of their property. The attempted severance of the development rights with uncertain and contingent market value did not adequately preserve those rights. Hence the 1972 zoning amendment is violative of constitutional limitations." 17

In summation, the British and American experiences with development rights proposals to date have been plagued by the problems of:

1. failure to accommodate the conflict between the private and public spheres in the land development market which stems from: a lack of consensus over compensation payments and the method by which they are to be awarded to affected property owners.
2. programs which for the most part, are all encompassing in that they are too complex for the public to understand. It must be appreciated that development rights programs challenge long cherished traditions of land ownership and land development held by property owners. Development rights proponents are advocating reform of our land use system without due concern for those traditions and with little proof as to the advantages or disadvantages of development rights proposals for solutions to the problems they were designed to address.

CHAPTER IV
THE ROLE OF STRATEGY IN
PRESERVATION LEGISLATION

Introduction to Chapter IV

As indicated in Chapter I preservation legislation must have a constituency in order that it be successful in the attainment of its goals. Just as important, is the need to develop a preservation strategy to deal with powerful interest groups who may interpret their rights to develop as being restricted by T.D.R. legislation.¹⁸

A. The Importance of Strategy

Chapter III illustrated that in spite of the literature that has been written on Development Rights, the concrete proof as to their "effects" has yet to be presented through actual programs which have stood the test of time.

In order that we are able to preserve our urban heritage it is essential that:

1. Governments, at the federal, provincial and local level assume a more active role in the designation of landmark structures and historical sites.
2. The resolution of the conflict between the private and the public sectors is essential to the success of any preservation legislation.
3. It must be recognized that the program will only be as successful as the planners who design and administer it.

Far too often the general public has been unwilling



pay for what its preservationists want; and the politicians concerned with re-election are reluctant to support policies that cut further into the taxpayer's billfold. It is here that the "strategy" for preservation legislation must be developed.

Two arguments may be used in attaining a listening audience on the preservation issue:

1. in that area of the city in which structures are to be preserved, property owners must be assured that preservation legislation will cost them nothing or that the benefits outweigh the costs. They must be assured that their property values will not be significantly altered.
2. those who have a vested interest in redevelopment i.e. land assemblers, developers, can be expected to oppose any preservation legislation because, as the argument goes: preservation restrictions will mean decreases in property value. However, such an argument can be countered, as redevelopment of the land assembler's property may be the appropriate form of action, however he will have to return something to the community in terms of compensation via the purchase of development rights.

It may be anticipated that any preservation legislation which fails to develop "economic strategy" to confront powerful interest groups can only be expected to fail.

1. Opposition to T.D.R.

The people from whom opposition to transfer of development rights schemes can be expected are those who demand more than their fair yield on their property. The process of which they are a part is the "alchemy" of rezoning. Any increase in value is false since the "potential" had to be present before the rezoning could result in higher density redevelopment. These expectations are by no means fair but they occur and it is the speculators whose potential for future economic value

would be undermined because of transfer of development rights. Corruption as a result of zoning and the planning process may be diminished, to the public's unmitigated advantage but the speculators would, if they had a clear perception of their interests lobby against any type of transfer of development rights legislation.

The speculators may derive a large following among home owners and those with interests in business property. The argument they are likely to launch (that the value of an individual's home will be significantly reduced with T.D.R. in comparison to present conditions) will be false, simply because the market system will still continue to ration the existing housing stock in any particular zoning category. The preferences among prospective home buyers will remain unchanged. However, the homeowner may feel that the opportunity offered him by being a hold-out during the private land assembly for high rise development in his neighbourhood is being undermined.

Programs of transferable development rights are doomed to failure unless they recognize one essential point: that property-holders are beset by a mysterious set of sacred attitudes for the land which they own; for land use revisionists to acknowledge and understand that fact is imperative.

The property designated for preservation must be for public use, any recoument derived from the foregoing must be incidental to valid public use. Moreover, it is essential that the owners of property designated for redevelopment receive equal consideration before the law; that they receive just

compensation such that they derive a "fair return" on their investment.

T.D.R. lays its greatest criticisms on the unfairness of zoning; that zoning confers economic hardships on some, and economic windfalls on others'. Laying aside the rhetoric, proof must be established through the creation of a simple transfer scheme (easy for all to comprehend) that will solve the economic deadlock by providing "benefits" not only to those upon whom the transfer scheme falls, but the developer, the general public and the government of the day.

CHAPTER V
PRESENTATION OF SURVEY DATA
AND RELATED DISCUSSION

Introduction to Chapter V

It is essential for the planners and politicians to recognize that if a substantial number of property owners desire preservation then and only then, should proposals such as transfer of development rights be considered as a preservation tool. The following chapter attempts to establish that rationale for a T.D.R. scenario in the study area. Moreover by virtue of the simplicity of the approach, the emphasis placed upon the mechanism used to value and distribute development rights and the attention given to equity, it is hoped to circumvent some of the issues and problems encountered by transfer of development rights programs attempted to date.

A. Research Procedure

The research procedure consisted of three phases:

1. Background data on theory of development rights and accumulation of data on Canadian, U.S., and British applications to date.
2. Interviews with political and administrative officials in the City of Winnipeg on areas of the city for which a transfer of development rights program might be applied.
3. Detailed investigation of the Fort Rouge area of the City of Winnipeg for development of a T.D.R. scenario.

1. Phase 1

Literature review consisting of articles and books, government reports and legislation form much of the background data base on transferable development rights theory and applications.

In supplementing the researcher's review of literature two government agencies were helpful. The Law Revision and Legislative Services Commission of the State of New Jersey was especially useful in providing up-to-date material on T.D.R. proposals attempted in the United States and Heritage Canada of Ottawa, Ontario through its contacts with various government departments, furnished the researcher with pertinent background data on political, legal and economic implications of T.D.R. within a Canadian setting.

2. Phase 2

Before proceeding to phase 2 the researcher formulated a clear perception of how and why the transfer of development rights technique should be used in an urban area such as the City of Winnipeg. The preliminary objective was to investigate the feasibility of T.D.R. as a technique to preserve low density structures that may otherwise be doomed to redevelopment because of economic pressures. Two assumptions were formulated at this point. They were:

1. The preservation of low density structures in the selected study area is a desirable public objective.
2. High density and low density uses need not be predatory. Moreover, preservation of low density structures generates positive externalities for apartment dwellers.

Interviews were conducted with three groups of people in

an attempt to furnish the researcher with an understanding of some of the urban problems and related issues which had surfaced in the Fort Rouge area over the years. First, political representatives of the Fort Rouge area, on both the provincial and city levels were interviewed; representatives of the city planning department responsible for the area; and members of the East of Osborne Study Group were queried on the pressures for redevelopment in this area of the City of Winnipeg. These preliminary interviews left the researcher with the opinion that the conditions existent in Fort Rouge presented the opportunity to undertake concerted research on the implications of T.D.R. through the formulation of a transfer scheme in an area that was facing intense market activity and fluctuating land prices.

3. Phase 3 (Survey Criteria)

Phase 3 consisted of several field trips to the River/Osborne District. The area to the East of Osborne Street between Stradbroke Avenue, River Avenue and Donald Avenue was originally researched for consideration as a possible T.D.R. study area. However, because of the following preliminary findings an alternative study area had to be selected.

a) Among those low density structures in this area fewer than 10% were owner-occupied. This finding therefore conflicted with one of the major criteria established in the dissertation. That is, for the chosen study area a significant sample of homes would have to be owner-occupied. This stipulation was especially important for determining owner-occupier's attitudes (those directly affected by preservation legislation).

b) Owner-occupied dwellings in the east of Osborne District where they existed, were in a serious state of deterioration. There appeared few attempts to rehabilitate these structures. This phenomenon was reflected in the general appearance of the neighbourhood. It was theorized that the deterioration of the neighbourhood housing stock had already reached a point where demolition and/or redevelopment of low density structures appeared to be inevitable.

The area immediately west of Osborne Street, that is; between River Avenue on the north, the rear lane on the south side of Stradbrook Avenue, Wellington Crescent on the west, and Osborne Street on the east faces the same type of intense market pressures for redevelopment. Preliminary surveys and field trips to this area revealed that the housing stock, although built during the same era as that characterizing the east side of Osborne was in relatively good condition and therefore not beyond the concept of restoration. There were visible attempts by neighbourhood residents to repair and maintain their homes and properties. Furthermore, there appeared (again from preliminary field trips) that there was a greater percentage of owner-occupiers living in the district. As a consequence of these findings it was decided to engage in the task of researching the district, its residents, and to test their receptiveness toward the preservation issue. This stage of the research coincided with the development of the three hypotheses.

4. The Sample

The sample represents a selected portion of the housing

population in the River/Osborne district. It therefore may not be representative of "area home-owners" as a whole. Within the district however, interesting trends may be deduced with regard to the issues of compensation, historic preservation, housing demolition from among the thirty-three owner-occupiers surveyed.

Random procedure was not involved in selecting prospective respondents for the River/Osborne questionnaire. The survey was specifically designed to gather data from among the owner-occupiers of homes in the designated study area.

In this area there are ninety-six low-density housing units. At the time the survey was undertaken, forty-seven of these structures were listed as owner-occupied according to the City of Winnipeg's assessment records. Each structure was thoroughly researched prior to conducting personal interviews in order to ascertain a detailed knowledge of each housing unit. An introductory letter (see Appendix A) was then mailed to each of the owner-occupiers of dwellings in the study area. Two days were allowed for the mailing process, on the third day the interviews began.

Of the forty-seven dwellings listed as being owner-occupied it was found that five of these structures were occupied by non-owners and five homes were unoccupied at the time of the survey. For those which fell under the latter category, a minimum of six return visits to each home were made in an attempt to have residents complete the questionnaire. Of the thirty-seven homes surveyed, four homes refused to respond to the questionnaire.

5. Physical History Data Base

Assessment department records provided a vehicle by which to trace the historical development of the neighbourhood through changes in its physical elements, that is renovations, repairs, and others. Moreover, the records provided a data source for providing an historical perspective detailing how the study area changed from a district of single-family homes to one providing a variety of housing types, specifically duplexes, duplex conversions and multiple dwellings.

Library catalogue services (Teela Realty Sales Review) located at the Winnipeg Real Estate Board provided the researcher with an up-to-date analysis of market values of land and structures in the study area. In contrast, the City of Winnipeg's assessments for true market values for dwellings in the study area when compared with actual 1977 sales, proved to be unusable because of their inaccuracy.

6. The Questionnaire

Data for the River/Osborne Home Ownership Study was assimilated by incorporating a structured interview questionnaire. The individuals questioned were either the principal wage earner or the spouse of the principle wage earner. Those interviewed were each given a copy of the questions, the interviewer posed the questions and asked the subject to respond in the manner he felt appropriate.

7. Format

The researcher decided upon the use of a personally administered questionnaire as a basis for the accumulation of data

for the following reasons:

- a. to acquaint himself with a personal "feel" and knowledge of the "neighbourhood character",
- b. to measure variables such as social class and other related variables, to see who was living in the area.

More specifically the questionnaire (see Appendix A) could be divided into five sections.

1. The first, (questions one and two) furnished the researcher with sociological data, family structure, employment status, and occupations in order to determine the "type" of people living in the study area.
2. Question three was designed to gain an insight into the "owner-occupiers" future investment plans and patterns. In light of the age of the housing stock, it was assumed that if trends for reinvestment in owner-occupied homes could be detected, such an occurrence would indicate a willingness among owner-occupiers to preserve the homes of the district, a willingness on the part of owner-occupiers to remain in the area and prevent further demolition from occurring.
3. Questions four and five of the questionnaire were particularly important in furnishing the researcher with data to trace the historical development of the neighbourhood, to determine (from residents' points of view) how and to what extent their neighbourhood had changed over the years, and to attain the residents' attitudes toward these changes.
4. Questions six through nine provided the researcher with essential background data for the tenth and final question of the questionnaire; that is,
5. "Do you as a home owner feel that if an apartment building is built close to you that you should receive compensation?" The issue of compensation is a basic foundation for T.D.R. programs. A positive response to this question was important in order to continue the research effort, in order to give the thesis direction, and in order to evaluate the merit of T.D.R. as a possible tool to aid in the preservation of the older homes in this area of Winnipeg.

8. Hypothesis 1 - Data Base

As indicated in Chapter 1 the River/Osborne home ownership study was designed to investigate the investment patterns

and future plans of owner-occupiers of dwellings in the T.D.R. study area.

The surveyor proceeded in an east-to-west direction along River Avenue, in conducting the survey. Owner-occupiers of dwellings located on streets running off River Avenue were then interviewed. The interviewer proceeded west-to-east along Stradbroke Avenue in conducting the remainder of the surveys. This procedure unveiled that an issue visualized as an urban problem to residents of one neighbourhood block could vary in intensity of response by other residents on adjacent streets. For example, attitudes toward redevelopment may be strongly opposed in one area while strongly favored by a majority of residents only blocks away. Moreover, the variety of issues of concern cited by neighbourhood residents are an indication of the many urban forces at work in molding and remolding the study area.

9. Hypothesis 2 - Data Base

Data for the second hypothesis is based primarily upon a case study of downzoning which occurred in the River/Osborne District during 1975. As changes in zoning would have to be made in the study area to accommodate a T.D.R. scheme the significance of the circumstances concerning this particular case and its outcome (i.e. the parties and issues concerned) becomes apparent.

To elaborate on the issue, the data base consisted of transcripts of meetings obtained from the Fort Rouge Constituency and The City of Winnipeg offices, publications of the local community newspaper (R.O.H.R.) and interviews with the principal

parties (i.e. citizens, politicians, and community workers who were involved in the downzoning issue.) The data base for discussion of the second hypothesis consists therefore, largely of review of literature and informal interviews conducted throughout the neighbourhood.

10. Hypothesis 3 - Data Base

Data for research of the third hypothesis consisted of analysis of legislation (federal, provincial and municipal) which were applicable to the Fort Rouge area. If preservation of low density structures such as those in the study area is a desired public objective then:

1. current preservation legislation applicable to the study area had to be analyzed.
2. a T.D.R. concept applicable to the study area had to be designed.
3. mechanics required for implementation of the scenario had to be formulated.

B. Analysis of Data

Analysis and discussions of the hypotheses formulated for this study are presented in the order in which they appeared in Chapter 1. (See Appendices B, C, D, E for discussion of data related to Hypothesis 1.)

1. Hypothesis 1

It is hypothesized that owner-occupiers of homes in the area bordered by River Avenue on the north, the rear lane on the south side of Stradbrook Avenue, Wellington Crescent on the west and the back lane east of Gerard Street, wish to have the existing housing stock preserved. Osborne Street forms the eastern boundary for the southern portion of the study area.

Table 1 - Question VI: Do You Feel That Homes In The River/
Osborne District Are Worthy Of Preservation?

	Response	%
Yes	30	90.3
No	2	6.6
Don't Know	1	3.3
Total	33	100.0

As may be seen from Table 1 more than 90% of owner-occupiers interviewed felt that homes should be preserved. On Stradbroke Avenue attitudes toward the "preservation" issue were the subject of heated debate between two individuals who have become recognized throughout the community on their stands for and against historic preservation. For this reason their comments have been summarized below:

a. Anti-Preservation Argument

Homes have deteriorated beyond a point where historic preservation can no longer be looked upon seriously as a means of restoration. The following reasons are felt to have contributed to the "serious" state of deterioration:

1. "Homes along Stradbroke were built over an underground river (Straddle-brook)". Over the years the foundations of structures along the street have gradually been sinking and shifting dramatically. This occurrence was witnessed by the researcher to be characteristic of several homes as he conducted surveys throughout the neighbourhood. The foundation is of crucial importance as it has repercussions for the total structure in terms of the degree of continuing maintenance and repairs.
2. It was pointed out that "the majority of homes throughout the survey area are not single-family dwellings but

have long since been converted to duplexes, rooming houses, headquarters for A.A., nursing homes and fraternity houses. Why should the houses of the area be preserved?"

3. The houses in the area are outdated to be used for occupancy by single-family home-owners. Because of the decline in size of the nuclear family, homes are now too large to be used exclusively for this particular type of use. Furthermore, the cost of maintaining such homes is too expensive by today's standards.
4. Stricter legislation in terms of fire safety (that is, exterior escape ladders) has left many of the structures throughout the neighbourhood as aesthetic eyesores unworthy of preservation.
5. Political representatives do not represent the feelings of owner-occupiers in terms of the preservation issue.

b. Pro-Preservation Arguments

1. "These homes represent an alternative to apartment living."
2. Homes are rich in terms of an abundance of interior and exterior living spaces.
3. Extensive renovations are required for many of the homes throughout the neighbourhood, but structures could easily be converted to accommodate at least two families at significant financial savings.
4. "The appearance of the neighbourhood is deceiving to passers-by, renovations and repairs are originating from the inside-out. People are interested in preservation, the process is only beginning."

Table 2 - Question VII: Do You Feel That The Removal Of Single-Family Homes In The River/Osborne District Is Of Concern To You?

	Response	%
Yes	28	84.8
No	4	12.1
Don't Know	1	3.1
Total	33	100.0

The high positive responses to questions six and seven are statistically significant in analyzing the hypothesis. Therefore, the hypothesis that owner-occupier of homes in the area bordered by Wellington Crescent, Stradbroke Avenue, River Avenue, the rear lane east of Gerard Street and Osborne Street wish to have the existing housing stock preserved is accepted.

In addition, question 3G of the questionnaire, summarized in Table 3, illustrates owner-occupier's commitment to preservation of the housing stock. Maintenance expenditure as depicted in Table 5 affirms the residents' preservation commitment as illustrated in Table 3.

Table 3 - Question 3G: Have You Made Renovations/Repairs To Your Home Since Moving In?

	Response	%
Yes	27	81.8
No	6	18.2
Total	33	100.0

Table 4 - Question 3J: Do You Anticipate Making Renovations/Repairs To Your Home In The Immediate Future (Next 5 years)?

	Response	%
Yes	24	72.7
No	9	27.3
Total	33	100.0

c. Maintenance Expenditure

Although renovations and repairs to housing accommodations is common throughout the study area, the structures on which the greatest amount of expenditure is being levied are found in the Gerard-Norquay Street area. Preliminary visits to these streets reveal houses that "appeared" to be in various stages of serious deterioration. However, the process of repair and reinvestment which for the most part is being carried out by the residents themselves is originating from the inside-out. That is to say; residents having initially purchased the structures place greatest priority upon repairing and decorating interior spaces of their homes and making it as inhabitable as possible for themselves and their families. The following tables summarize maintenance expenditures during the last seven years among homes surveyed.***

* In Table 5 a base year has not been used for estimation of renovation expenditures. The purpose of the table is not to measure expenditures per se but to illustrate that renovation activity exists in the study area.

* No priority is attached to numerical designation for nature of repairs in tables five and six.

* Frequency of response is indicated to right of types of repair.

Table 5 - Renovations To Owner-Occupied Homes In Study Area (1972-1977)

Address	Nature of Repairs	Cost to Nearest \$100
A	1	12,000
B	8	1,500
C	1	6,000
D	9	1,500
E	1	7,000
F	8	N/A
G	3	5,000
H	7	N/A
I	3	10,000
J	1	5,000
K	3	8,000
L	5	10,000
M	8	4,000
N	4	14,000
O	8	N/A
P	4	5,000
Q	10	600
R	3	5,000
S	6	5,000
T	5	200
U	8	200
V	3	8,500
W	4	N/A
X	6	3,000
Y	6	2,500
Z	3	N/A
Z ₁	7	7,000

KEY

1. Room(s) Added (4)
2. Room(s) Deleted - (6)
3. Room(s) Remodeled (4)
4. Electrical Wiring (4)
5. Plumbing Work (4)
6. Plastering; Dry Walling (7)
7. Windows Replaced (12)
8. Interior Painting (20)
9. Exterior Painting (14)
10. Roof Repaired (2)
11. Roof Replaced (2)
12. Landscaping (10)
13. Complete Remodeling (3)
14. Foundation Work (4)
15. Insulation Added (3)

Table 6 - Anticipated Future Renovations To Owner-Occupied Homes In Study Area (1977-1982)

Address	Nature of Repairs	
A	3	9 11
B	6	11
C	3	12
D	3	
E	9	
F	1	10 12
G	1	
H		
I	1	9 12
J	1	11 12 15
K	3	
L	9	
M	9	
N	3	
O	1	7 9 12
P	14	
Q	10	14 15
R	11	
S	8	9 12
T	6	
U	3	15
V		
W	10	
X	4	5 14

KEY

1. Room(s) To Be Added (5)
2. Room(s) To Be Deleted
3. Room(s) To Be Remodeled (6)
4. Electrical Wiring To Be Done (1)
5. Plumbing To Be Done (1)
6. Plastering-Dry Walling To Be Done (2)
7. Windows To Be Replaced (1)
8. Interior Painting To Be Done (1)
9. Exterior Painting To Be Done (7)
10. Roof To Be Repaired (3)
11. Roof To Be Replaced (4)
12. Landscaping To Be Done (7)
13. Complete Remodeling To Be Done
14. Foundation Work To Be Done (3)
15. Insulation To Be Added (2)

2. Hypothesis 2

It is hypothesized that opposition to changes in zoning (made to accommodate preservation of low density structures) is not expected from affected property owners.

Analysis of the hypothesis is based upon a case study of downzoning which occurred in Fort Rouge during 1975. (See Map 2, refer to Appendix F for related data on downzoning issue.)

a. Area Affected

The downzoning as indicated on Map 2 stipulated that:

1. All of the property South of the Midpoint of the land immediately north of Corydon Avenue be exempted from the proposed rezoning.
2. That those properties now conforming with "R-3" structure or use continue to be zoned "R-3".
3. That the remainder of the properties be rezoned to "R2-C" for a period of one year from the date of third reading of this By-Law by Council or the date that the District Plan By-Law receives first reading by Council, whichever is earlier. 19

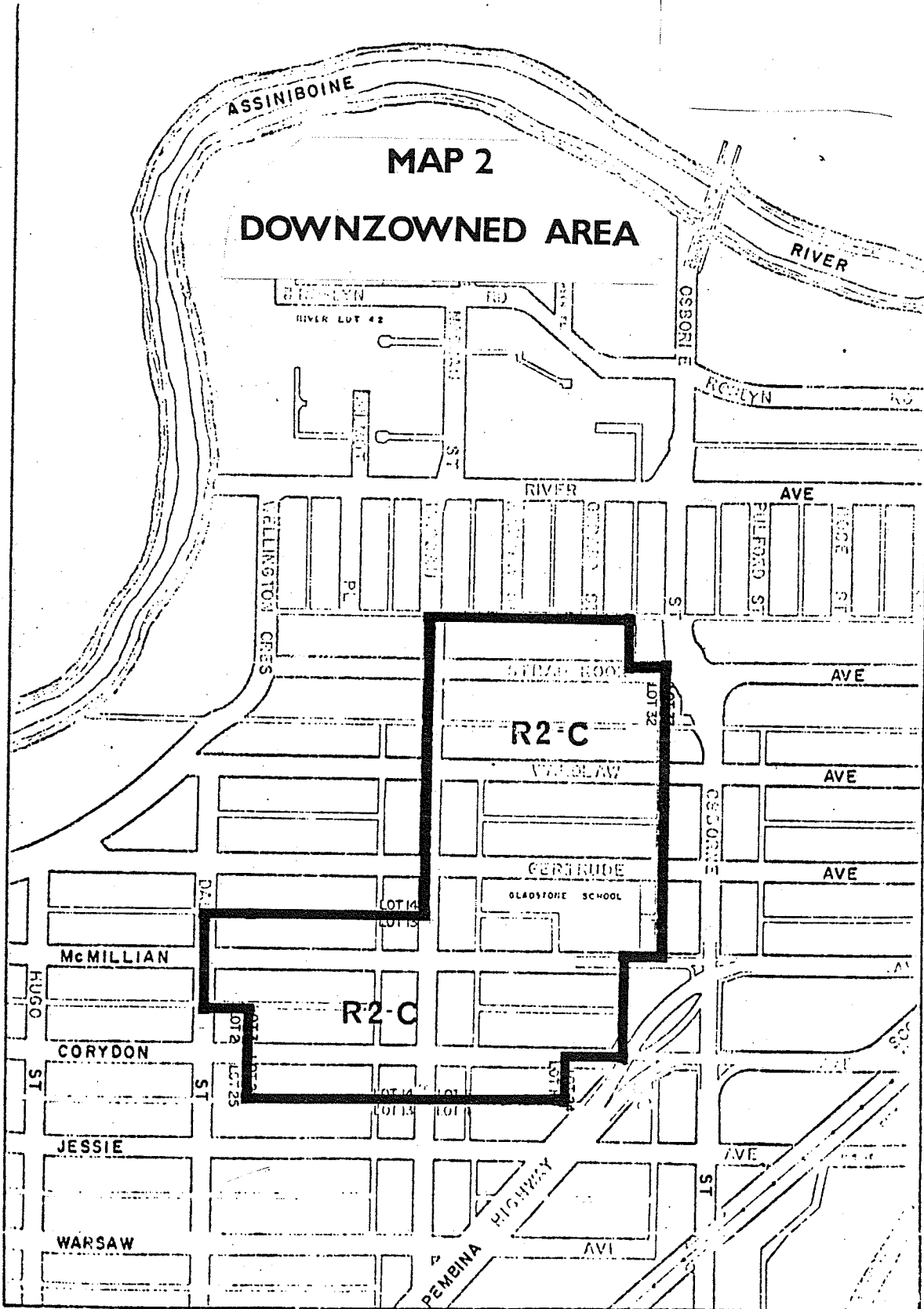
b. Rationale For Downzoning

The existing R-3 zoning permitted the construction of walk-up apartment buildings, apartment hotels, hospitals, fraternity houses, etcetera. The proposed "R2-C" zoning was designed to permit single-family units, duplexes, and the conversion of larger units into suites. "R2-C" does not allow the construction of apartment blocks.

The downzoning procedures were initiated for the following reasons:

1. Zoning regulations in existence at the time did not reflect existing land use and militated for redevelopment.
2. The downzoning was intended to be enacted for one year

proposed zoning change to By-law No. 16502 to re-zone land from an "R3" MULTIPLE-FAMILY DISTRICT to the zoning classification indicated below.



only in order to give area residents an opportunity to "participate" in the "District Planning Process" that would proceed in advance of future development proposals for the area.

c. Historical Review Of Downzoning Issue

A public meeting to discuss zoning changes to By-Law 16502 was held on April 15, 1975 at the Fort Rouge Community Committee Offices. The meeting had to be reconvened to April 29, 1975 due to the fact that many people who were in attendance on April 15 had not had the opportunity to voice their opinion on the downzoning issue.

Analysis of transcripts of those meetings reveals that many of those opposed to downzoning felt that it would reduce "future value" and/or result in a loss of present value. The opposition consisted of

"a large number of long term property owners who saw the downzoning as a 'backward step' rather than 'progress'." 20

Those residents supporting the downzoning wished to have the non-apartment residential character continue in their area and to rehabilitate the existing houses. The supporters of downzoning consisted of:

"for the most part comparatively new owners.... The supporters claimed that the value of the majority of properties in the area exceeds what developers can presently afford under R-3 zoning, and that the R2-C zoning would protect the higher value of their properties or houses." 21

Those who spoke at the second meeting on April 29, 1975 and expressed opposition to the downzoning numbered eleven (plus a petition of approximately seventy-five names. Six persons spoke in support of the proposal.

d. Residents' Views on Downzoning

The following comments were made by residents during the public hearings on July 15 and July 29, 1976 regarding the proposed downzoning of their area. Particularly significant were the comments made by the respondent in example seven who clearly perceived the need for a compensation formula.

Example 1 - I'm Mrs. Konap from 524 Stradbrook. The petition speak for itself. Over 90% of us do not want to be downzoned. I live in Stradbrook for twenty-five years. Too many things have changed in the past twenty years. We don't want to go back to that zoning. We want to go forward. Thank you very much. 22

Example 2 - Mr. Chairman, Councillors, I live at 514 Stradbrook, which is in the area that's up for re-zoning and I'd like to speak in favor of the application....I find it a most encouraging development, in fact I'd say perhaps the most exciting initiative that I've seen come out of City Council in the last three and a half years in order to protect the residents. 23

Example 3 - ...downzoning to us is degrading us, it is actually a slap in the face to a homeowner who lives in the district for any length of time. 24

Example 4 - It's my feeling that apartments and single-family houses should be handled very carefully in future planning work that the City is doing and I haven't heard any really convincing arguments with all the people that have been speaking tonight to contradict anything Mr. Pentland has said, basically.... I haven't heard any convincing arguments against it so I'd like to cast another vote for the downzoning. 25

Example 5 - ...I approve, I just want to make that clear, that I'm also being very selfish. I like my area, I want it to stay the way it is now, and I don't want my neighbour to sell to a developer. Thank you. 26

Example 6 - ...people in the area who are homeowners now and who say they have interests to protect, are basically not protecting a residential interest. In fact most of them are protecting a speculative interest. And I think that's really what you people are looking

- Example 6 (Concl'd) at. What it seems to me that if you're in opposition to this proposal, saying is that they want to protect their right to speculate on their property, to be able to sell it at a profit, to be able to build at a higher-density if they so choose. 27
- Example 7 - ...I would like to speak in favor of the rezoning plan, and I'd like to speak as a landed immigrant. The fact that you have kept your neighbourhood liveable and nice, near the city core. In the cities that I have lived in in the States, I have seen more and more hi-rise, more and more density come into the areas like this that have made them undesirable to people like yourselves. 28
- Example 8 - Yes, Barb Gordon, I'm a tenant at 570 Stradbrook and I strongly oppose the downzoning of the area. I feel that going back twenty years, pushing the clock back twenty years is impractical and, for the area that's got so many blocks as it is now, and to try and push it down and make it into "R2-C" or whatever, when it's congested as it is now, it just doesn't make any sense to me. 29
- Example 9 - ...the whole inner city drastically need rehabilitation, just not this one little area here. And yet the amount of rehabilitation that we've seen in the last few years is really minimal...we're waiting for somebody else to do it. We're waiting for the City to do it, or we're waiting for a developer to come in and buy us out, and completely re-do the neighbourhood.... I'm in favor of the downzoning because I think that's a very positive thing for people who are trying to rehabilitate their properties. 30
- Example 10 - ...you have to consider the general good of your city. And if you allow a dense development of industrial buildings, commercial buildings and high-rise apartments, and medium high-rise apartments along Corydon Avenue, you're going to already aggravate a traffic situation that's extremely difficult at the present time. 31
- Example 11 - ...I own this house, 233 Wellington Crescent, and if the principle of downzoning is successful there, it's bound to spread in the neighbourhood, it is only across the Wellington Crescent on the riverbank. So, I don't think I committed anything wrong by buying an investment property which has potential value, and downzoning will reduce property value without any, without any fault on my part. And if a suitable compensation formula is devised, and this downzoning is accompanied by compensation to the property-

Example 11 (Concl'd) owners in the region, then we can examine it, but in the present form, it is totally unacceptable. 32 (Italics mine)

Example 12 - ...But I also don't see any reason to leave a blank cheque hanging out there in the community for people to build whenever and whatever they feel like building, without their neighbours having an opportunity to express themselves as to how they feel about that building. 33

The Fort Rouge City Councillors on a three to two vote recommended that Stradbroom, Wardlaw and Gertrude from Osborne to Nassau and McMillan from Osborne to Daly be "downzoned" for a period of one year. A letter from R. P. Darke, Director of Environmental Planning, dated March 6, 1975 (See Appendix F), recommended that the area alluded to above be downzoned, because:

"The zoning regulations presently in fact do not reflect this existing land use." 34

The Committee on Environment upon considering reports of the Fort Rouge Community Committee and the Department of Environmental Planning recommended on August 20, 1976 that the downzoning be not proceeded with. (See Appendix F)

Therefore, the hypothesis that opposition to changes in zoning (made to accommodate preservation of low density structures) is not expected from affected property owners is rejected.

3. Hypothesis 3

A transfer of development rights program will partially compensate:

1. those property-owners denied future capital gains because of preservation designation,
2. and those who want to maintain detached area homes (but must now accept densities higher than they would wish in the study area).

It must be recognized that the transfer of development rights scenario developed for the study area is an experimental scheme. The purpose of the design is two-fold:

1. to help alleviate the problems encountered in initiating a preservation program as has been illustrated in the second hypothesis.
2. to illustrate some of the problems which can arise as a result of such a program.

It is further acknowledged that the transfer scheme is dealing with "the evolution of neighbourhood history" by attempting to come to terms with the forces for redevelopment and preservation. This section sets out an experimental T.D.R. district that will be evaluated as to its potential in compensating residents for the effects of rezoning.

a. Initiating the T.D.R. Ordinance

Under section ninety-two of the British North America Act property is a provincial responsibility. As such, the provinces are responsible for initial action in heritage property protection. The federal government has two roles to perform, these are:

1. to ensure that no federal law inadvertently works to the detriment of heritage conservation, and that heritage legislation is considered in the search for a fair balance between conservation and other public interests.
2. the federal government exercises a certain role in the protection and development of Canadian culture.

The issue which remains is the degree and direction which the federal government should be involved in heritage preservation.

b. Role of the Province in Heritage Conservation

Legal covenants placed upon properties in order to prevent

demolition have been successfully used in other countries as a planning tool for heritage preservation. Canadian law does not provide the legal framework for the enforcement of such covenants. However, the problem could be overcome by the passing of enabling legislation in the provinces that would permit certain bodies to establish covenants upon heritage property or areas so designated.

Heritage Canada

"urges provincial governments to give early and serious consideration to the recognition of 'excess development rights'." 33

It is the province which has the ultimate authority to implement heritage legislation measures such as transfer of development rights and/or to delegate such responsibilities to municipalities.

The authors of the River/Osborne District Plan, 1974, have stated in relation to "their program of rehabilitation that":

"The City shall make provision for the retention and rehabilitation of existing residential buildings, where feasible, in an effort to retain neighbourhood character and to continue to accommodate the existing population mix."

With regard to the implementation of the foregoing policy they state:

Programs for the implementation of the foregoing policy may include:

- (a) the adoption and enforcement of a minimum maintenance by-law, and
- (b) the creation of an economic climate which will encourage rehabilitation through the provision of grants and/or loans for rehabilitation under section 652 of the City of Winnipeg Act.

While the City, under the City of Winnipeg Act, section 640 "Minimum Standards of Maintenance and Occupancy" does have the

power to implement a minimum maintenance by-law, it is a measure which does not get at the roots of the preservation problem. The real issue lies with article (b) above: that is; the creation of an economic climate. However, a system of grants or loans is not necessarily the answer because the success of an application to rehabilitate a designated structure or an historic district may in large measure depend upon other factors, (the number of applications for rehabilitation made at one point in time, the funds available during the fiscal year). The success of a rehabilitation measure may not therefore depend solely on the intrinsic merits of the particular proposal.

More importantly it may be unnecessary to cut further into the taxpayers billfold for the allocation of grants and loans for rehabilitation projects, after careful consideration of a program of transferable development rights.

In summation, the basic essential for enactment of a T.D.R. ordinance is to obtain enabling legislation from the province. A special Heritage Preservation Act could be implemented to establish development rights transfer as a reality. Amendment would then have to be made to the Planning Act, the City of Winnipeg Act, relevant by-laws applicable to the affected area, in order to administer the scheme.

c. Role of the City of Winnipeg
In the Scenario

The Planning Department of the City of Winnipeg shall be responsible for the administration of the transferable development rights program and setting it in motion. The agency to register

and market the development rights shall be the City of Winnipeg's Land Titles Office. Its function shall be as a central marketing development rights agency that will ensure a free market for the sale of development rights. It would operate in much the same way that a "stock market" would function were bid and asking prices for development rights would be subjected to "full disclosure" to the public. Only after a fixed disclosure period would the development rights exchange between transfer district and preservation district be executed. The exchange of development rights and revenue between buyers and sellers could then be settled in the same manner as property titles are currently exchanged. In summation, the procedure should be designed in order to accommodate an active futures market in development rights.

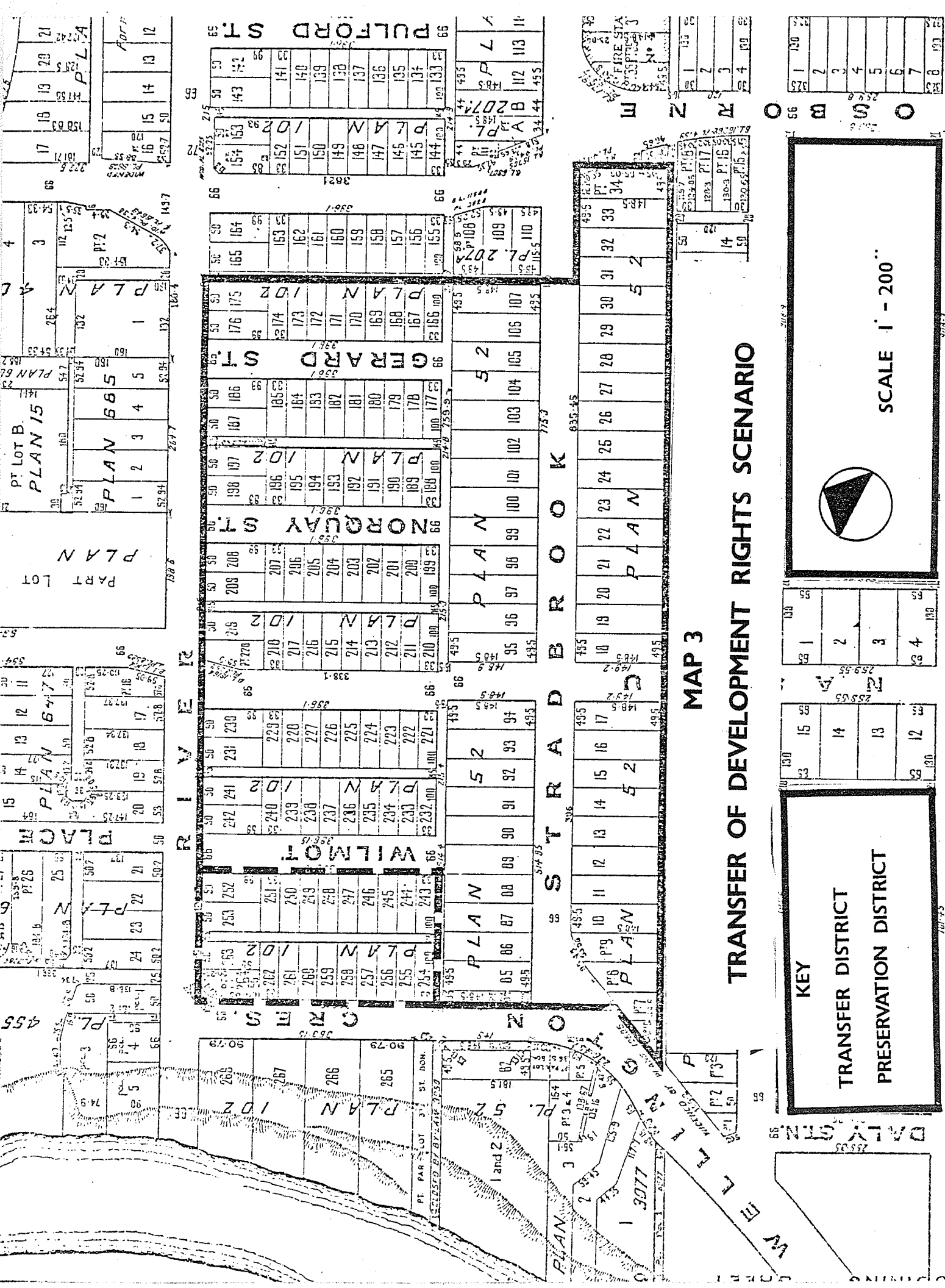
d. Holdouts

Once the developer has accrued 'x' number of development rights he must be assured of the right to initiate expropriation proceedings through the City in the event that individuals would hold development rights for anticipated future capital gain. It must be understood that the object of the T.D.R. ordinance should not be to constrict development but to encourage preservation.

e. The T.D.R. Scenario
Through Time

The T.D.R. scenario has been designed to provide a viable solution for today's preservation issue by addressing itself to the interest groups alluded to in Hypothesis 3 and by attempting to come to terms with the unfairness of zoning vis-a-vis equity transfer.

However, T.D.R. proponents can only theorize about the



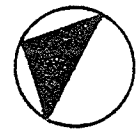
MAP 3

TRANSFER OF DEVELOPMENT RIGHTS SCENARIO

KEY

TRANSFER DISTRICT

PRESERVATION DISTRICT



SCALE 1" = 200'

1	120
2	120
3	120
4	120
5	120
6	120
7	120
8	120
9	120
10	120

1	130
2	130
3	130
4	130

1	150
2	150
3	150
4	150

1	170
2	170
3	170
4	170

1	190
2	190
3	190
4	190

1	210
2	210
3	210
4	210

1	230
2	230
3	230
4	230

WATER OF ...

PL. 102

PL. 103

PL. 104

PL. 105

PL. 107

PL. 108

PL. 109

PL. 110

PL. 111

PL. 112

PL. 113

PL. 114

PL. 115

PL. 116

PL. 117

PL. 118

PL. 119

PL. 120

PT. LOT B.

PLAN 15

PLAN 64

PLAN 75

PLAN 102

PLAN 103

PLAN 104

PLAN 105

PLAN 107

PLAN 108

PLAN 109

PLAN 110

PLAN 111

PLAN 112

PLAN 113

PLAN 114

PLAN 115

PLAN 116

PLAN 117

PLAN 118

PLAN 119

PLAN 120

PART LOT

PLAN

PLAN 15

PLAN 64

PLAN 75

PLAN 102

PLAN 103

PLAN 104

PLAN 105

PLAN 107

PLAN 108

PLAN 109

PLAN 110

PLAN 111

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types of urban problems that will dominate today's T.D.R. district at some point in the future. In an earlier chapter it was pointed out that "urban development must be viewed as a dynamic, on-going process, and that our land use legislation has lagged behind in providing new techniques to deal with new sets of problems now beseiging our urban centers. Similarly, as conditions change in the future, perhaps more development shall be deemed a desirable public objective for the T.D.R. district. Therefore a continuous market for the development rights should be envisaged.

f. Transfer of Development
Rights Scenario

The T.D.R. scenario has been designed for the purpose of evaluating the transfer of development rights concept. The boundaries (see Map 3) of the transfer and preservation districts have been selected so as to internalize the externalities of the rezoning ordinance as much as possible to the study area. Moreover, the boundaries have been delineated with the object of emphasizing their importance not only for the area in which the transfers are to be executed but for the surrounding area as well.

The preservation district or the grantor of development rights is bordered by River Avenue on the north, on the east by the rear lane east of Gerard Street, on the west by Wilmot Place and on the south by the rear lane south of Stradbrook Avenue. The proposed transfer district or the "recipient" of development rights shall be bordered by River Avenue on the north, Wellington Crescent on the west, Wilmot Place on the east and on the south by the rear lane north of Stradbrook Avenue. It

is proposed that the transfer district should be upzoned to accomodate high density structures subject to:

1. careful analysis of existing services potential within the district,
2. full consideration and adherence to sound planning principles.

Briefly, the proposal would permit the owner of land in the transfer district to calculate the floor space now permitted by the new zoning regulations if high density were permitted. The potential floor space above that which is allowed under existing zoning would then be expressed in terms of "development rights." The developer would then have to purchase development rights from among the owners of low density structures in the preservation district. Thus the developer can increase the size of structures in the transfer district (within limits), realize a greater return on his investment and achieve greater economies of scale, only after returning to the community, compensation in terms of the purchase of their development rights for his right to build to higher-density.

g. Criteria for Valuation of "Rights"

1. Eligibility for Preservation Designation

Among the ninety-six low density structures (codes 10, 11, 14, 15, 16) in the study area many may be found to be beyond the concept of rehabilitation or restoration because of serious deterioration. Such information could be made available after consultation with structural engineering consultants who would survey the district. A list can then be prepared of structures which should be preserved and those which should not. In addition it

may be found that many of the structures have already undergone extensive renovations and repairs and will therefore not require extensive rehabilitation expenditures. Once the area has been surveyed, the average expenditure for structural rehabilitation can be calculated. This data will therefore help to determine "valuation" of development rights.

2. Degree of Compensation

Equal consideration for the valuation of development rights must also be given to those property owners who have given up their right to redevelop to higher uses. As long as their respective properties can be put to a reasonably profitable use and the zoning restriction is in the interests of the "total community" then the restriction should not be considered unduly confiscatory. Finally the cost of "development rights" to the developer must reflect his willingness "to buy" in return for the "right" to develop to greater density. Lot sizes and existing market value of property should play a role in helping to assign value to development rights. Together the above criteria along with location of affected properties from the upzoned district should be used in creating a sliding scale for the sale of development rights.

3. Sliding Scale for Valuation of Development Rights

The model depicted in Map 4 illustrates how the sliding scale would function. Property owners would be awarded compensation payments by the developer according to the degree to which they were affected by the externalities created by high density development. With increased lineal distance from the upzoned district the value of the rights would decline to zero. This

would in effect help to establish the perimeters of the preservation district.*

Once the City of Winnipeg's Planning Department has attached a dollar figure for each property owner's development rights the exchange of rights between buyers and sellers can take place through bidding proceedings at the Land Titles Office.

h. Rehabilitation

Once a property owner has sold the development rights from the property to which they were attached, the funds can be used to rehabilitate the low density structures in the preservation district. To ensure that funds are invested for rehabilitation the T.D.R. legislation may include the concept of "compliance" to ensure that all or a fixed portion of the compensation payments are used for rehabilitative work.

As stated in Chapter 1 Introduction, "Limitations to the Thesis", the final proof as to the validity of a development proposal in attaining the goals as delineated in Hypothesis 3 rests with implementation and the test of the market place. Therefore the hypothesis that:

- A. Transfer of Development Rights programs will compensate:
1. Those property owners denied future capital gains.
 2. and those who want to maintain detached area homes (but must now accept densities higher than they would wish in the study area).

is neither accepted nor rejected.

* It should be noted that the value allotted for development rights by the Planning Department may fluctuate once bidding proceedings begin at the Land Titles Office.

CHAPTER VI

CONCLUSIONS - RECOMMENDATIONS .

Introduction to Chapter VI

Chapter VI calls for a firm commitment by "government" in the endorsement of preservation legislation. The facts have been presented, the case has been made for preservation of low density structures in the study area. If statements one and two on page forty-seven are accepted then T.D.R. must be given the opportunity to prove itself through implementation.

A. The Need for Firm Commitment to Preservation

Private property owners do not own development rights. Such privileges exist at the wish of governments. Governments have an active role to play in heritage preservation; just as they have in the field of social development. A century ago, the problems of the individual, the hardships faced by groups in society were visualized as falling under the responsibility of those directly concerned whether it be the immediate families of affected individuals or of the voluntary organizations which later developed. Today the three levels of government are all actively involved in the promotion of social development.

Interest in the promotion of cultural development, (specifically heritage preservation), emerged as a concern among governments first in Scotland, England and then in the United States. It was only after the public demonstrated an interest

in heritage preservation vis-a-vis voluntary organizations did the government enter the field. Government participation became a reality because effective action was not visualized as a possibility in the private sector. In Canada it was not until 1973 that the government established its first "national voluntary heritage organization".

The need for government action is designed not to replace private enterprise but to offer direction to individual initiative in order that it be used more effectively. The active role of government in preservation legislation such as T.D.R. does not engender serious departures from heretofore accepted participation by governments. In spite of the fact that the public has over the years accepted increasingly tight restrictions on what one may do with property, government has rarely restricted the owner's right to destroy "property" whose value belongs to the "public".

It must be understood that every successful society has developed a social organization (of which land ownership is a part) suited to the conditions in which it existed, and changed this social organization as basic conditions in society changed. The need for a close critical examination of our traditional forms of land use controls and the requirement for innovative new legislation designed to deal with contemporary urban problems which our land use legislators of a generation ago could not have possibly forecasted with zoning has been illustrated.

In closing, transfer of development rights is not a panacea. It will not replace sound planning or zoning nor are

these purposes for which the concept has been intended. What it will do is help to facilitate planning once the objective for which T.D.R. is to be used has been clearly defined. Moreover, the greatest strength of T.D.R., unlike zoning, is in its treatment of equity.

Therefore:

1. if the rehabilitation of low density structures in the study area is a desired public objective
and
 2. if the redevelopment potential of land is not a private right but a right that should be shared by the public
then and only then
- should T.D.R. be looked upon as a potential solution for the preservation issue in the River/Osborne District.

APPENDIX A

River/Osborne Questionnaire

University of Manitoba Winnipeg R3T 2N2 Canada

Faculty of Architecture

204 474-9286

20th February 1977.

Dear Sir or Madame:

I am a student and in my final year of the Masters program in City Planning at the University of Manitoba. I am investigating the feasibility of a technique that will provide financial assistance for the restoration of homes that are of architectural or historical significance in the City of Winnipeg. I have therefore undertaken a study of single-family, owner-occupied dwellings in the area enclosed by Stradbrook and River Avenues, and Osborne Street and Wellington Crescent. I am writing this letter to ask your help and participation in my study.

Your home is one of the forty-four selected from among those I have designated as my sample. Shortly I will be contacting you to set up an appointment for an interview. Your help in the survey will be a great contribution in determining how a program could be set up for the restoration of single family homes in the Fort Rouge area. I believe that you will find the interview both pleasant and interesting. The information which you provide will be kept strictly confidential and will be used only for the purpose of this study.

I would very much appreciate your assistance in this matter.

Yours truly,

Stephen B. Demmings.

Kent Gerecke, Ph.D.
Head, Department of City Planning.

Department of City Planning
University of Manitoba

River/Osborne Questionnaire

Address: _____

1. Are you the principal wage earner in your household?

Yes _____

Spouse of Principal Wage Earner _____

Other _____

2. Background information on principal wage earner and family:

A. Sex Male _____

Female _____

B. Age Group 20-25 _____ 41-45 _____
26-30 _____ 46-50 _____
31-35 _____ 50- _____
36-40 _____

C. Marital Status married _____

single _____

widow _____

separated _____

divorced _____

other _____

D. Number of Children _____

E. Age(s) of Children 1-4 _____ 13-16 _____
5-8 _____ 17-20 _____
9-12 _____ 20- _____

F. Employment Status Employed Part Time _____

Employed Full Time _____

Seasonal _____

Unemployed _____

Retired _____

G. Occupation _____

3. Characteristics of primary wage earner's housing accommodation.

A. Type of Tenure Owns _____

Rents _____

Other _____

B. Length of Tenure _____

C. Dwelling Type Single Family Dwelling _____

Duplex _____

Multiple Dwelling _____

Rooming House _____

D. Age of Dwelling 1890-1900 _____
1901-1910 _____
1911-1920 _____

E. Number of Rooms
(excluding bathroom, hallways, etc.) _____

F. Dwelling Condition Good _____
Fair _____
Poor _____

G. Have you made renovations/repairs to your home since moving in?

*Yes _____
No _____

*If Yes: How long ago? _____

H. What was the nature of these repairs?

Foundation work _____
Room added _____
Windows replaced _____
Insulation added _____
Painting exterior _____
Painting interior _____
Landscaping _____
Other _____

I. What was the cost of these repairs? _____

J. Do you anticipate making renovations or repairs to your home
in the immediate future? (next 5 years)

*Yes _____
No _____

*If Yes: What renovations do you plan _____

What do you anticipate these will cost? _____

K. Is any area of your home rented to someone outside your family?

*Yes _____
No _____

*If Yes: Is the area rented -

A room(s) _____
Basement _____
Main Floor _____
Second Floor _____
Other _____

4. What things have disturbed you most about the way your neighbourhood has changed since you have lived here?

- Apartment Construction _____
- Through Traffic _____
- Outdoor Recreation Facilities _____
- Access to School _____
- Other _____

5. What things have pleased you most about the way your neighbourhood has changed since you have lived here?

6. Do you feel that homes in the River/Osborne District are worthy of preservation?

- Yes _____
- No _____
- Don't Know _____

7. Do you feel that the removal of single family homes in the River/Osborne District is of concern to you?

- Yes _____
- No _____
- Don't Know _____

8. Do you feel you are being encouraged to sell your home to make room for high-rise (apartment) development?

- Yes _____
- No _____
- Don't Know _____

9. Do you anticipate selling your home in the immediate future?
(next five years)

- Yes _____
- No _____
- Don't Know _____

10. Do you, as a home owner, feel that if an apartment building is built close to you; that you should receive compensation?

- Yes _____
- No _____
- Don't Know _____

*Appraised Value of Structure _____

*Appraised Value of Land _____

*Market Value (1977) _____

*Number of sales of dwelling in last 7 years _____

APPENDIX B

Sociological Data
Applicable To Study Area

The Respondents

Sixteen, or 48.5% of those interviewed were male, the remaining seventeen respondents (51.5%) were female.

Age

All of the owner-occupiers were between twenty-six and fifty-plus years of age. Five respondents or 15.2% of those surveyed were between twenty-six and thirty years of age. Eight respondents (24.2% were between thirty-one and thirty-five years of age, four respondents (12.1%) were between forty-one and forty-five years of age, four respondents (12.1%) were between forty-six and fifty years of age, the remaining twelve were fifty years of age and over.

Marital Status

Among the subjects interviewed, twenty were married (60.6%) of the sample, three respondents (9.1%) were single, two respondents (6.1%) were widowed, five respondents (15.2%) of the individuals surveyed were separated, two respondents (6.1%) were divorced and one fell into the "other" category making up the remaining 3% of those studied.

Number of Children

Eight families had no children for a total of 25% of the sample, six families had one child for a total of 18.7%. Eleven families had two children for a total of 34.3%, three families had three children for a total of 9.3%, three families had four children for a total of 9.3%, one family had five children for a total of 3.1% and one family had six children for a total of 3.1%.

Within the district, among the homes of owner-occupiers, 37.5% of the children were twenty years of age or older, with 12.5% between the ages of thirteen years to sixteen years and a similar percentage between one and four years. The majority of families with young children were found in the Gerard-Norquay Street areas where there has been an influx of young professional couples in recent years in keeping with the redevelopment of Osborne Street. A common occurrence found among residents of Gerard and Norquay Streets is the interrelationship between home ownership along these routes and the number of wage earners owning business east of Gerard along Osborne Street.

Employment Status

Among home owner-occupiers interviewed, nineteen were employed on a full time basis. This type of employment status accounted for 57.6% of homes interviewed. Three principle wage earners among those surveyed (9.1%) were employed on a part-time basis, one household had no principle wage earner, five owner-occupied homes (15.2%) of the sample were retired, two homes were occupied by students making 6.1% and three owner-occupied dwellings (9.1% of sample) were self-employed.

Length of Residency

Among those homes interviewed, length of residency varied between two days to forty-two years. Forty-six percent of the owner-occupied dwellings in the area studied were occupied for a period of less than three years. This figure accounted for fifteen of the owner-occupied homes in the district. Nine of the

fifteen homes were found in the Gerard-Norquay Street area. As the surveyor progressed in an east-to-west direction, average length of tenancy among owner-occupiers followed a trend of increasing duration or time occupied in a particular dwelling.

It is those areas adjacent to the Osborne Street interchange that there is a process of ongoing change that is exerting an influence upon the residents who live in the neighbourhood adjacent to where the redevelopment is occurring. The redevelopment has created social externalities by attracting a particular type of home buyer seeking to find accommodations close to where "things are happening".

APPENDIX C

Problems - Issues By Sub-Areas

PROBLEMS - ISSUES BY SUB-AREAS

The study area can be divided into a number of sub-areas each with its own unique set of problems common to the residents living in these areas. Attitudes toward the issues of restoration, redevelopment and historic preservation differ in degrees of intensity as one moves in an east to west direction through the district. These attitudes are reflected in the degree to which owner-occupiers have become involved in the restoration and repairing of their homes and the extent to which they are concerned by the change in "neighbourhood character". For the aforementioned reasons the researcher has opted in favor of analyzing the survey data on a block-by-block basis in an attempt to heighten the reader's awareness of these problems and issues.

Gerard Street

Owner-occupiers of homes along this street in comparison to those throughout the district have been most seriously affected by the redevelopment of Osborne Street. This process has manifested itself in a number of ways. A common complaint is the problems caused by the back lane (between Gerard Street and the Osborne boutiques adjacent to the lane). This is largely attributable to the orientation of the back lane with River Avenue, and the fact that the Safeway Complex on the north side of River Avenue aligns itself perfectly with the back lane. As a consequence, increasing numbers of Safeway customers use this route as an egress lane cutting across River Avenue, (thereby avoiding the Nassau Street and River Avenue traffic lights), and travel down

the back lanes to join the Nassau Street traffic flow. This increased use of the lane is felt by Gerard Street residents to constitute a danger to the safety of young children who use the backyards which front upon the lane, as a play area. Gerard Street itself, in keeping with the commercial redevelopment of Osborne Street and the Safeway, Shoppers' Drug Mart, Liquor Mart and Toronto Dominion Bank outlets, has undergone a role of increasing importance in accommodating traffic overflow from the aforementioned establishments. The situation has grown so acute that residents in the recent past have banded together to petition City Hall for the implementation of two hour parking signs along the street. Posting of the signs has not, however, resulted in reducing the number of automobiles using Gerard Street for convenience parking. In summation, the commercial developments which have grown along Osborne Street and River Avenue have resulted in increased volumes of traffic coming into the area and have manifested themselves in the following ways:

- a) It has resulted in decreased safety to children.
- b) It has resulted in Gerard Street being used as a "convenience parking lot".
- c) It has infringed upon the residents' rights to use the street in front of their homes for the parking of their own vehicles.
- d) It has resulted in over-crowding of back lanes by vehicles making deliveries to the Osborne Street boutiques, thereby holding up traffic using this route as a short cut to Nassau Street.

Traffic and the concomitant problems caused by it, was interpreted as an issue of concern to 80% of the owner-occupiers of dwellings along Gerard Street. Among owner-occupiers inter-

viewed in this area, 30% expressed concern over the lack of recreational facilities for young children. Related complaints included the inaccessability of the riverbanks to residents, not only in the study area but in the City as a whole.

Other issues of concern to Gerard Street residents included the occurrence, in summer months, of increasing numbers of drunks loitering behind the church located at the southern most extremity of Gerard Street. This was interpreted by 20% of owner-occupiers located on the street to constitute a problem of aesthetics in the neighbourhood and an infringement to the safety of neighbourhood children.

Apartment construction was not an issue of concern to owner-occupiers surveyed along Gerard Street, although it was voiced by a minority of residents that apartment construction which has occurred thus far in the neighbourhood history could have been better designed so as not to infringe upon the "aesthetics" of the area.

Gerard Street owner-occupiers indicated that among the characteristics they liked about the area in which they lived was its geographic location. Forty percent of the homes contacted felt that "location" was important for the following reasons:

- a) Their neighbourhood was furnished by excellent bus services to the Downtown and the Pembina/Osborne Street interchange.
- b) Residents were within walking distance to shopping facilities (Safeway, Osborne Street boutiques).

Residents felt that one of the ways in which the "neighbourhood" had changed dramatically in the last few years was in the evolution of a "community atmosphere". Older residents were

moving out of the neighbourhood and young couples were moving in and were taking an active interest in renovating and repairing their homes. In summation, social changes in the neighbourhood in recent years which were interpreted as being good for the community were:

- a) The street was judged to be a friendly place in which to live.
- b) The street was quieter than it had been in the past.
- c) There was an out-migration of older residents and an in-migration of young couples who were interested in "renovation".
- d) There had, in recent years been growth of a sense of "community", of a village type atmosphere in the neighbourhood.

Norquay Street

The owners of the six owner-occupied dwellings along this route indicated that problems caused by vehicle flow originating from the back lane east of Gerard Street was of concern to them. Problems originating from traffic flow manifested themselves in a number of ways:

- a) increased traffic was felt to originate from Safeway customers using the back lanes as a short cut to Nassau Street,
- b) increased traffic flow meant decreased safety to neighbourhood children,
- c) related problems as a consequence of vehicle flow but not necessarily originating from the new developments along Osborne Street or the Safeway shopping complex were disruptions to neighbourhood parking, resulting from church services, weddings, etcetera, held at Our Lady of the Rosary Church (corner of Nassau

Street and River Avenue).

The demolition of homes throughout the River/Osborne district and the construction of apartment buildings was an issue of concern to two owner-occupiers of homes along this street. Of the homes surveyed on Norquay Street, 57.1% indicated that the development of the Osborne Street Village was one of the positive changes which had occurred in their area. Location (that is, proximity to Osborne Village, shopping facilities, and bus services) were among the attractive elements in their community.

River Avenue, Nassau Street, Wilmot Place,
Wellington Crescent

Owner-occupiers of dwellings along these routes tended to be longer term residents in the study area than those interviewed in the Gerard-Norquay Street locations. Traffic and related problems caused by vehicle flow were a concern of 44% of homes interviewed. An issue of greater concern to 77% of the owner-occupiers of dwellings along these routes was the construction of apartment dwellings. Typical responses from area residents attempting to explain their concern over how their neighbourhood had changed for the worse during the time they had lived there were:

"A lot of homes are allowed to deteriorate---Wilmot Place needs repairing."

"The neighbourhood is falling apart, people are not taking an interest in keeping up the maintenance."

"Condition of the homes in the neighbourhood is bad, as neighbourhood declined, rooming houses took over."

"When Edinburgh House was built area residents were 120% opposed to its construction, it was supposed to be built forty feet back from Wellington Crescent, Edinburgh House is not a thing of beauty."

"The city has not concerned itself about the wishes of the residents."

"Winnipeg has done too much demolition."

In this area, of home owners interviewed, thirty-three percent expressed concern over the subject of outdoor recreational facilities. This took several forms which were:

a) Construction of apartment buildings has cut off sunlight for owner-occupiers of homes wishing to grow flowers, lawns, etcetera.

b) The area lacks a good swimming pool.

c) There has been a decline in "greenery" in recent years.

d) The district needs a park.

In terms of voicing opinions on the question, "What things have pleased you most about the way your neighbourhood has changed since you have lived here?" no significant trends on particular issues emerged or could be detected among those owner-occupiers surveyed along these routes.

Stradbrook Avenue

The demolition of four homes on the south side of Stradbrook at the intersection of Stradbrook and Wellington Crescent by the City of Winnipeg has been and continues to be a particularly contentious issue among 75% of the owner-occupiers interviewed. A variety of opinions emerged through the interviews as to the far-reaching effects of changes in the alignment of Wellington Crescent at this location. Relevant views raised were:

a) Realignment of this particular intersection had far reaching consequences in that greater volumes of traffic have

now used this route as a faster means of egressing from the city centre.

b) This phenomenon has resulted in a decrease in safety to pedestrian traffic and has helped to facilitate the process of aesthetic decay along Stradbrook Avenue.

c) The demolition of these homes has helped to eradicate a "closure effect" previously offered to the area. The change in route alignment has had far reaching effects in exposing the district to external influences and thereby contributing to the deterioration of a previously existing "Village" in the heart of Downtown Winnipeg.

A second concern voiced by 62% of residents interviewed along Stradbrook Avenue was the type of new residents migrating into the community. Some of the larger structures on Stradbrook Avenue are currently occupied by the Alcoholics Foundation of Manitoba, Nursing Homes and Fraternity Houses. In addition, A.A. currently occupies two structures on Nassau Street and two on River Avenue. Fraternity Houses are a common occurrence in the larger housing units on Wilmot Place. Owner-occupiers of dwellings along Stradbrook Avenue have expressed concern that such organizations, spread sporadically throughout the neighbourhood have had a negative effect by contributing to the deterioration of the "neighbourhood character". The decline in "character" has manifested itself in a number of ways:

a) Organizations such as A.A. that have come into the neighbourhood in recent years have not taken an interest in maintaining their structures, they do not contribute as a

neighbourhood member, they do not add to the community.

b) Several older residents have expressed concern over the fact that they feel their personal safety is threatened if they walk along Stradbroke Avenue during evenings. The prevalence of "drunks" wandering throughout the neighbourhood and sleeping in "doorways" has been and continues to be a source of concern to some residents.

c) Residents have expressed concern over the issue of parking problems and loud parties originating from Fraternity Houses along Wilmot Place and Stradbroke Avenue.

No significant trends emerged from among area residents on the subject of positive changes which had occurred in their neighbourhood during the time they had lived there. A minority of residents did however, feel that the redevelopment of Osborne Street, because of its relatable "Village Character" was a good thing to have occurred in the district.

APPENDIX D

Description of Physical Inventory
in Study Area

Table 7

Property Codes Applicable to Study Area

<u>Code</u>	<u>Definition</u>	<u>#</u>
10	Dwelling	42
11	Dbl. Dwelling	3
14	Dplx. Conversion	30
15	Duplex	1
16	Apts. Converted Dwelling	17
19	Apartments	5
30	Commercial (Str. Store)	1
43	Bank of Montreal	1
80	City of Wpg. Property	1
90	Churches	3
94	Nursing Home	2
97	Res. Vacant Land	<u>3*</u>
TOTAL CODES		108
TOTAL STRUCTURES		106

Total Low Density Structures

Excludes:	1. Churches	2
	2. Apt. Blocks	5
	3. B. of M.	1
	4. Vacant Land	3
	5. City of Wpg. Property	1
Sub Total		96
Total Absentee Landlords (for structures coded 10, 11, 14, 15, 16, 94) only		50
Total Owner-occupied low-density structures		47

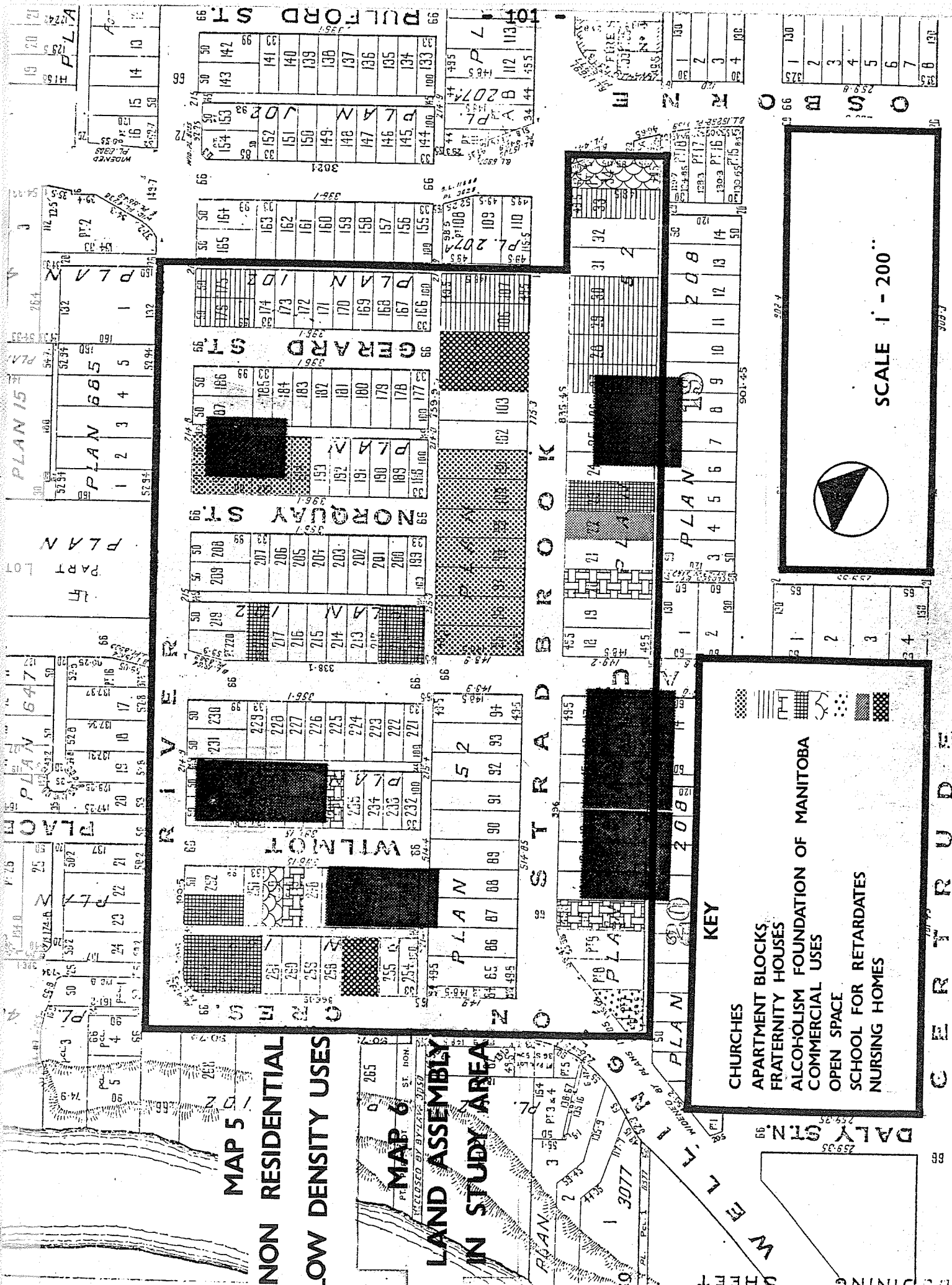
*Property coded as vacant land but has structure built upon it.

Source: City of Winnipeg Assessment Department.

Table 8 - Individual or Groups Owning Two Structures or More Among Codes (10, 11, 14, 15, 16) in Study Area.*

OWNER	NUMBER STRUCTURES
A	3 structures
B	2 structures
C	3 structures
D	3 structures
E	3 structures (4 lots)
F	2 structures (3 lots)
G	2 structures (4 lots)
H	3 structures
I	3 structures
J	2 structures
K	2 structures
TOTAL LANDOWNERS	TOTAL STRUCTURES
11	28

Source: City of Winnipeg Assessment Department



MAP 5
NON RESIDENTIAL
LOW DENSITY USES

MAP 6
 ST. HON.
 ENCLOSED BY BY-LAW 1059

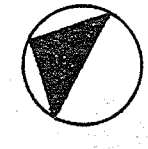
LAND ASSEMBLY
IN STUDY AREA

KEY

- CHURCHES
- APARTMENT BLOCKS
- FRATERNITY HOUSES
- ALCOHOLISM FOUNDATION OF MANITOBA
- COMMERCIAL USES
- OPEN SPACE
- SCHOOL FOR RETARDATES
- NURSING HOMES

DAILY GIN.
 259.35
 259.35

SCALE 1" = 200'



259.8

1	130
2	130
3	130
4	130
5	130
6	130
7	130
8	130

PL. 2074

1	130
2	130
3	130
4	130

PL. 2074

1	130
2	130
3	130
4	130

PL. 2074

1	130
2	130
3	130
4	130

PL. 2074

1	130
2	130
3	130
4	130

PL. 2074

1	130
2	130
3	130
4	130

PL. 2074

1	130
2	130
3	130
4	130

PL. 2074

1	130
2	130
3	130
4	130

PL. 2074

1	130
2	130
3	130
4	130

PL. 2074

1	130
2	130
3	130
4	130

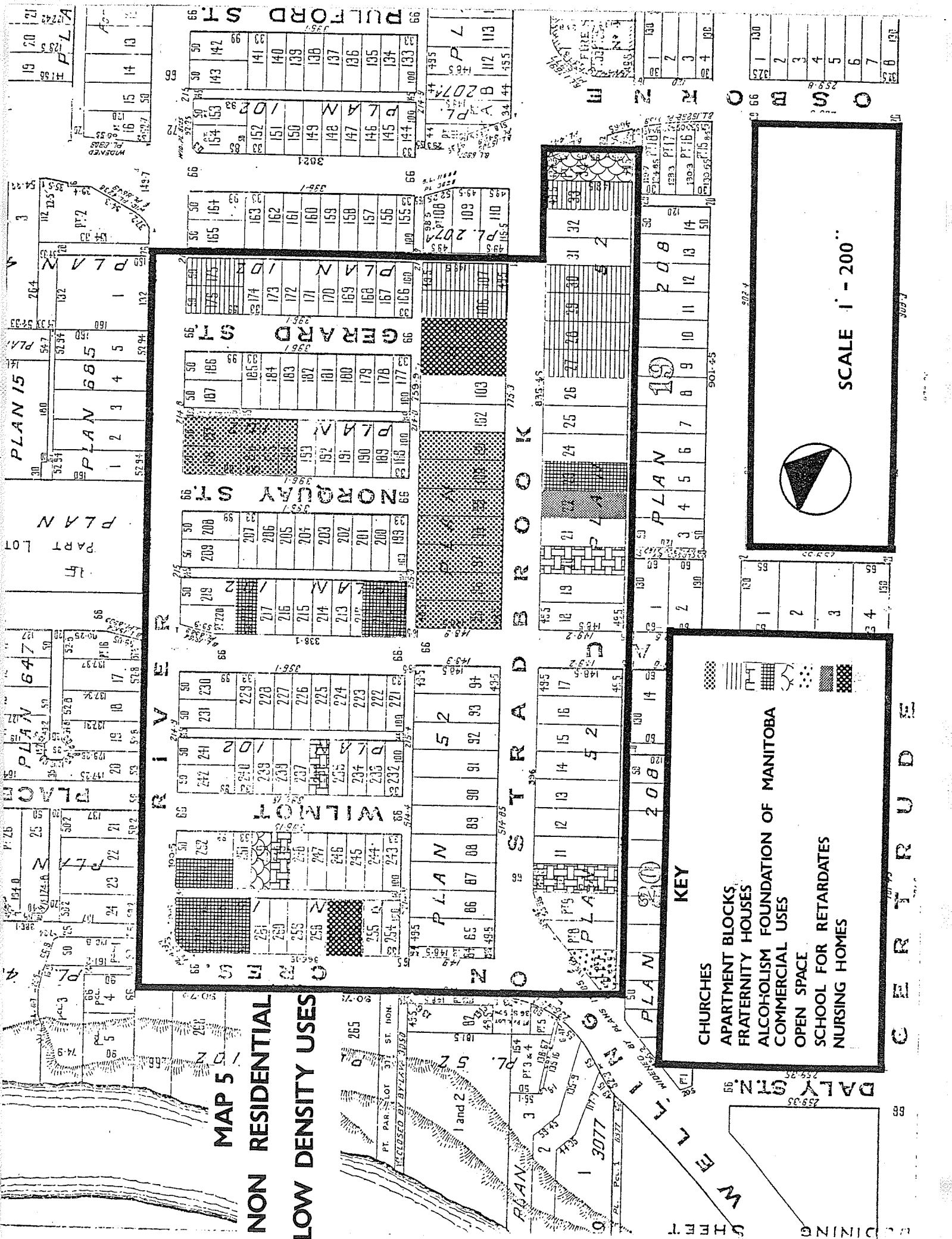
PL. 2074

1	130
2	130
3	130
4	130

PL. 2074

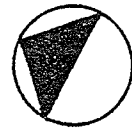
1	130
2	130
3	130
4	130

**MAP 5
NON RESIDENTIAL
LOW DENSITY USES**



KEY

[Symbol: Dotted pattern]	CHURCHES
[Symbol: Horizontal lines]	APARTMENT BLOCKS
[Symbol: Vertical lines]	FRATERNITY HOUSES
[Symbol: Diagonal lines (TL to BR)]	ALCOHOLISM FOUNDATION OF MANITOBA
[Symbol: Diagonal lines (TR to BL)]	COMMERCIAL USES
[Symbol: Stippled pattern]	OPEN SPACE
[Symbol: Checkered pattern]	SCHOOL FOR RETARDATEES
[Symbol: Solid black square]	NURSING HOMES



SCALE 1" = 200'

CERTRUDE

1	130
2	130
3	130
4	130
5	130
6	130
7	130
8	130

19	20	21
41	66	42

1	2	3	4	5
57	94	102	104	112

1	2	3	4	5
57	94	102	104	112

1	2	3	4	5
57	94	102	104	112

17	18	19	20	21	22	23	24	25
57	58	59	60	61	62	63	64	65

17	18	19	20	21	22	23	24	25
57	58	59	60	61	62	63	64	65

17	18	19	20	21	22	23	24	25
57	58	59	60	61	62	63	64	65

1	2	3	4
24	34	44	54

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
100	105	110	115	120	125	130	135	140	145	150	155	160	165	170

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
100	105	110	115	120	125	130	135	140	145	150	155	160	165	170

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
100	105	110	115	120	125	130	135	140	145	150	155	160	165	170

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
100	105	110	115	120	125	130	135	140	145	150	155	160	165	170

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
100	105	110	115	120	125	130	135	140	145	150	155	160	165	170

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
100	105	110	115	120	125	130	135	140	145	150	155	160	165	170

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
100	105	110	115	120	125	130	135	140	145	150	155	160	165	170

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
100	105	110	115	120	125	130	135	140	145	150	155	160	165	170

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
100	105	110	115	120	125	130	135	140	145	150	155	160	165	170

APPENDIX E

Description of Physical Inventory
Among Structures Surveyed

Classification of Structures

In the study area homes have been grouped into four categories by the City of Winnipeg's Assessment Department. "Dwellings" are listed as code ten by the Assessment Department. Among the owner-occupied survey sixteen fell into this category (48.5%). Duplexes, code fifteen, numbered two among total homes surveyed for a percent total of 6.1. The abundance of floor space which is characteristic of the majority of structures in the district has prompted a substantial number of home owners to convert their homes to duplex conversions. Eleven of the thirty-three homes surveyed, have opted in favor of this type of dwelling (code fourteen). This accounts for thirty-three percent of the structures. The remaining four homes interviewed are listed as apartments (converted dwellings) and are 12.1% of the total surveyed.

Gross Living Areas

Four of the homes surveyed had gross living areas less than fifteen hundred square feet. Therefore, in comparison to today's building standards the majority of structures in the study area are characterized by floor spaces far in excess of the average standard floor space today. Twelve homes (37.5% of the survey) had gross living areas which ranged between two thousand and one and twenty-five hundred square feet. Six homes (18.7% of the total survey sample) had gross living areas in the twenty-five hundred and one to three thousand square foot range and another six were between fifteen hundred and one and two thousand square feet. The remaining five structures were characterized by living areas in excess of three thousand and one square feet.

As has been indicated, 36.4% or twelve of the families interviewed among the total survey were fifty years of age and over, 37.5% had children in excess of twenty years of age. For many of these families, the abundance of unused floor space had been further accentuated by the occurrence of their offspring leaving home.

In summation a number of factors have contributed to the gradual process whereby an increasing number of owner-occupiers (54.5%) now rent some portion of their homes to persons outside the family.

Factors Contributing to Change of Housing Classification

The decreasing size of the nuclear family has left owner-occupiers with vast amounts of unoccupied but potentially useable floor space. Similarly for many of the older residents of owner-occupied structures in the area, entire second and third floors have become available for alternative uses owing to the fact that their children have left home. For owner-occupiers wishing to supplement their incomes, and for those who have retired from the work force, the unused floor space represents a possible avenue of additional income. Twenty-four (72.7% of the owner-occupied dwellings in the district) were two and one half storey structures. This characteristic and the abundance of floor space, coupled with the increase in costs of home heating in recent years has been cited by many respondents as factors contributing to areas of their homes now being rented to parties outside their respective families. An interesting

phenomenon which occurred during several of the interviews was the differentiation made by respondents between "home" and "home ownership". Respondents referred to their homes as that area of the structure occupied by them as living quarters. This usually consisted of the main floor. Home ownership was interpreted to mean that the respondents held title to the total structure including that area which he referred to as his "home". Among those owner-occupiers renting portions of their home to someone outside their families, 26.9% indicated that these accommodations consisted of a room or rooms, 38.4% indicated that the area rented consisted of a second floor with the balance 34.6% indicating that the rented area consisted of the third floor. In most cases where the second and third floors were rented to someone outside the family, tenants entered their living accommodations via an existing staircase that had been blocked off from the main floor by a walled partition.

Building Types

The City of Winnipeg's Assessment Department also codes building structures according to different types. Eight of the homes surveyed (24.2% of total sample surveyed) are categorized as types 70 and 73. The remainder of the owner-occupied dwellings fall into types 20, 23, 40, 41, 51 and 52. The descriptions for these dwellings are antiquated and as a result are both misleading and inaccurate. For example, for all of the typologies, descriptions read "Residential - Dwelling single family". It has been previously illustrated that only sixteen of the thirty-three homes surveyed are in fact "dwellings".

Type 23 structures of which there are three in the study area, consist of one and one-half stories, built between 1920 and 1930. However, after conducting a search of the thirty-three homes, it has been established that all were constructed between 1890 and 1920. Furthermore, descriptions for different dwelling types are unclear in their meanings. Frame constructions have been described as 'standard' or 'good', but nowhere in the assessment literature do explanations or definitions of the terms exist. Of the dwellings surveyed, 78.8% (twenty-six of the total surveyed) were built between 1900 and 1910.

The errors made by the City of Winnipeg's Assessment Department in the description of dwellings in the study area became more apparent upon conducting personal visits to the homes. Each owner-occupier was asked to indicate the number of rooms (excluding bathroom, hallways, etc.) that were in his home. The following table indicates the number of rooms per dwelling according to Assessment Department records and the number of rooms which in effect existed at the time the survey was undertaken. Where Assessment Department recording errors occur with respect to number of rooms, homes have been designated with an asterisk. Street addresses have been deleted to respect the confidentiality of the respondents.

Table 9 - Number of Rooms Per Dwelling (excluding
bathrooms, hallways, etcetera)

Address	Assessment Department Records	Owner- Occupiers Statement
* A	11	10
B	11	11
* C	8	11
D	9	9
* E	13	15
F	14	14
* G	13	12
H	14	14
* I	10	9
* J	12	16
K	8	8
L	9	9
* M	8	9
* N	6	5
* O	9	11
* P	8	9
Q	5	5
* R	10	11
* S	8	7
* T	10	11
* U	4	6
* V	11	8
W	8	8
X	8	8
Y	9	9
Z ₁	9	9
Z ₂	10	10
Z ₃	8	8
Z ₄	15	15
Z ₅	8	8
Z ₆	12	12
* Z ₇	12	8
* Z ₈	14	15

Housing Condition

Owner-occupiers were asked to rate the "condition" of their home according to three categories: Good, Fair and Poor. Twenty-two of the respondents (66.6%) felt that they were in good condition in spite of the fact that all structures were in excess of sixty seven years of age. The remaining 33.4% of the respondents surveyed felt that their homes were in fair condition. None of the respondents felt that their homes were in poor condition.

APPENDIX F

Data Related to Downzoning Issue



THE CITY OF WINNIPEG
DEPARTMENT OF ENVIRONMENTAL PLANNING
100 MAIN STREET • WINNIPEG • MANITOBA • R3C 1A5

IN REPLY PLEASE REFER TO

R. Taylor
PH: 985-5047

File No: EP 7.5b
DAZ 216/75
FORT ROUGE COMMUNITY COMMITTEE

March 6, 1975

Mrs. C. Edwards, Clerk,
Fort Rouge Community Committee,
510 Main Street,
Winnipeg, Manitoba.
R3B 1B9

Dear Mrs. Edwards:

Re: DAZ 216/75
PROPOSED ZONING CHANGES TO BY-LAW
NO. 16502 BY REZONING THE AREA
INDICATED ON SKETCH ATTACHED FROM
AN "R3" DISTRICT TO AN "R2C" DISTRICT.

In response to the request of the Fort Rouge Community Committee the Commissioner of Environment has applied on behalf of the City of Winnipeg for a rezoning on the above-noted lands in order to stabilize the area while a district plan can be formulated and adopted by Council.

The subject area is developed primarily with large older dwellings, originally constructed for single-family occupancy, but with many now converted to duplexes, boarding houses, etc.

The zoning regulations presently in force do not reflect this existing land use, and therefore militate for redevelopment which may prove incompatible with existing development or with the recommendations of area residents through the District Plan process.

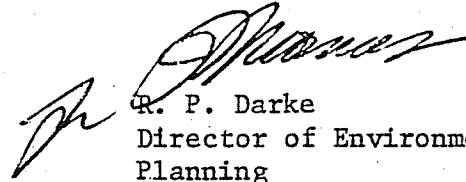
The proposed zoning change would be expected to preclude prejudicial development during the period of time required to formulate a district plan.

The area presently zoned for medium density housing contains little or no open space, and would not provide a satisfactory living environment for the construction of medium density housing. Any designation of portions of the neighbourhood for medium density housing should result from a planning process which considers all the factors relevant to such development. The dissatisfaction of the residents with development to date, and with possible development permitted by current over-zoning, has been stated, as has the wish to initiate a planning process in the area.

-2-

Should your Community Committee recommend this application for approval, it is suggested that your recommendation include the provision that the proposed zoning change be instituted as a temporary zoning by-law under Section 601 of the City of Winnipeg Act, for a period of one year or until a District Plan is adopted for the area, whichever should occur first. At the expiry of this temporary period, the zoning will revert to the existing "R3" designation, if no more suitable designation has resulted from the District Plan process.

Yours truly,



R. P. Darke
Director of Environmental
Planning

RT/dh
Encl.

THE CITY OF WINNIPEG

COPY

December 17th, 1974.

RPO
MRE
LV
+ DP
+ file

File No. DAZ

PROF. M. J. ...
DEC 18 1974
DIRECTOR OF ENVIRONMENTAL PROGRAMS

Chairman and Members of the
Fort Rouge Community Committee.

Councillors:

On December 16th, 1974, the Committee on Environment considered a presentation by Councillor Westbury regarding the proposed rezoning of the area north of Corydon Avenue, west of Osborne Street, east of Daly, and south of the Assiniboine River, and also west on Wellington Crescent to Grosvenor Avenue as set forth in her brief, copy of which is attached hereto.

The Committee on Environment referred this to your Committee for comments back to the Committee on Environment as soon as possible.

Yours truly,

[Handwritten Signature]

City Clerk.

MGM:nm

cc. Mr. R. P. Burke

CITY OF WINNIPEG
RECEIVED
DEC 19 1974
DEVELOPMENT PROGRAMS
DIVISION

Report of the Committee on Environment, dated August 11th, 1975.

Metropolitan Homes - Plan of Subdivision
Chancellor Drive - Cancellation of Old Plan
File DAS 46/73

1370.- 6. Your Committee recommends approval of the cancellation of:

"All those portions, of Registered Plans Nos. 1940 and 11867, W.L.T.O., contained within the limits of a plan of survey of part of River Lots Seven to Thirteen of the Parish of Saint Vital in Manitoba shewn outlined in pink on a plan of survey prepared by James Ballie, Manitoba Land Surveyor, and sworn to by him on the Fourth day of July, Nineteen Hundred and Seventy-five."

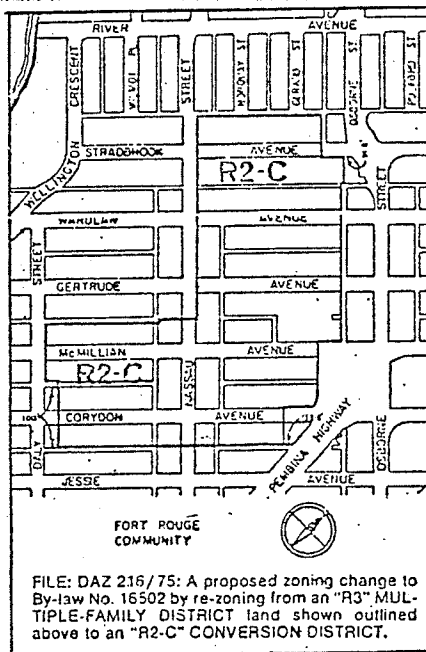
being portions of a plan located within the plan of subdivision approved by Council in By-law No. 1044 passed on July 16, 1975.

Moved by Councillor Galanchuk,
Adoption of the clause.

Carried.

Proposed zoning change to By-law
No. 16502 - Fort Rouge Community
File DAZ 216/75

1371 - 7. An application has been initiated by the Commissioner of Environment in response to a request from the Fort Rouge Community Committee for a rezoning as indicated on the sketch shown below, in order to stabilize the area while a district plan can be formulated and adopted by Council.



Report of the Committee on Environment, dated August 11th, 1975.

Public meetings were held on April 15th, 1975 and April 29th, 1975, by the Fort Rouge Community Committee to consider the proposed zoning change.

The following appeared in support of this proposed rezoning:-

Dr. Colin J. Gillespie, 514 Stradbrook Avenue,
 Mrs. Jo-Ann Greisman, 99 Norquay Street,
 Mr. Garry Scherbain, 481 Gertrude Avenue,
 Mrs. Judy Kovnats, 10 - 758 McMillan Avenue, appeared on her own behalf and on behalf of the Residents Advisory Group,
 Mr. Tom Shay, 261 Wellington Crescent,
 Mrs. Clare Ladd, 125 Norquay Street,
 Mr. Harry Miller, 558 Stradbrook Avenue,
 Mr. Kenneth Emberley, 387 Truro Street,
 Mr. Lorne Matthews, 593 McMillan Avenue,
 Mrs. Joan MacKintosh, 1C - 220 Hugo Street North.

The following appeared in opposition to this proposed rezoning:-

Mrs. A. Konop, 524 Stradbrook Avenue,
 Mrs. Nina Chomiak, 511 Wardlaw Avenue,
 Mr. Dal McCloy, 540 Stradbrook Avenue,
 Mr. John Neufeld, 494 Wardlaw Avenue,
 Mrs. J. Kasian, 930 Sherburn Street,
 Mr. Tom Paukovic, 234 Nassau Street,
 Mr. Gary Chalmers, 516 Wardlaw Avenue,
 Mr. E. Nikkel, 515 Wardlaw Avenue,
 Nettie Nikkel, 515 Wardlaw Avenue,
 Ollie Landega, 508 Wardlaw Avenue,
 Andy Landega, 508 Wardlaw Avenue,
 Mrs. M. Kupfer, 64 Valleyview Drive, owner of 495 - 499 Stradbrook Avenue,
 Mrs. M. Hodgson, 302 - 188 Roslyn Road,
 Mr. S. Silverman, 388 St. Johns Avenue,
 Mr. R. Lazar, 308 - 240 Stradbrook Avenue,
 Mrs. G. Merlevede, 578 Stradbrook Avenue, appeared on behalf of Mrs. Phyllis Poons, 202 Nassau Street, and presented a petition purporting to contain the signatures of 117 residents of the area in opposition to the proposed rezoning.
 Mr. G. Merlevede, 578 Stradbrook Avenue,
 Mr. M. Sampson, 603 McMillan Avenue,
 Janet Carroll, 544 Wardlaw Avenue,
 Mr. Ted Zielinski, 569 Stradbrook Avenue,
 Miss Barbara Gordon, 570 Stradbrook Avenue,
 Mr. W. H. Matz, 187 Montrose Street,
 Mr. S. Kupfer, 64 Valleyview Drive,
 Mr. A. L. Thawani, 206 - 1975 Corydon Avenue,
 Mrs. Gladys Penner, 602 Stradbrook Avenue.

Mr. R. Swait, 592 McMillan Avenue, appeared requesting information as to what will happen to those people presently living in the area if the proposed rezoning is effected.

Mr. Andrew Little, 54 Yale Avenue, appeared and asked various questions as to property values and stated that he was appearing neither in support of nor in opposition to this proposed rezoning.

After considering all aspects of the proposed zoning change, the Fort Rouge Community Committee recommended that the application to amend By-law No. 16502 as indicated on the sketch shown above be approved as follows:

- A) That all the property South of the mid-point of the lane immediately north of Corydon Avenue be exempted from the proposed rezoning.

AR 2-P
 Aff: 10

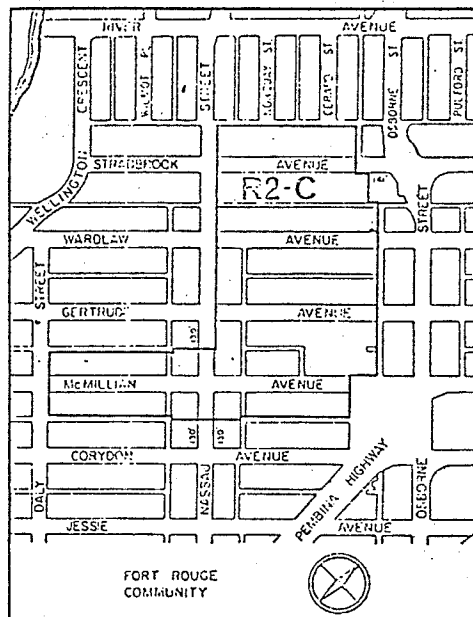
Report of the Committee on Environment, dated August 11th, 1975.

- B) That those properties now conforming with "R3" structure or use continue to be zoned "R3".
- C) That the remainder of the properties be rezoned to "R2-C" for a period of one year from the date of third reading of this By-law by Council, or the date that the District Plan By-law receives first reading by Council, whichever is earlier.

Your Committee has been advised that in addition to the property mentioned in A) above, it will also be necessary to delete from the proposed zoning change, a 49.5 ft. lot on the south side of Stradbrook Avenue, 91.5 ft. from the western limit of Osborne Street. This property, commonly known as 472 Stradbrook Avenue and described as Lot 32, Plan 52, D.G.S. 35, St. Boniface, is presently being rezoned to "C2" Commercial District under File No. DAZ 207/75. On June 11, 1975, Council adopted your Committee's Report dated May 26, 1975, recommending that the application be proceeded with.

Since the purpose of zoning is to restrict certain uses in order to protect other uses, and the purpose of non-conformity is to encourage the eventual removal of uses which are not a part of the predominant character of an area, it is considered that condition B) represents a contradiction of the intended effects of a zoning by-law. This condition is, in effect, equivalent to the spot zoning of several properties which have a character distinct from the dominant character of the neighbourhood.

The Department of Environmental Planning has recommended approval of a temporary rezoning by-law pursuant to Section 601 of The City of Winnipeg Act to amend By-law No. 16502 by rezoning the land outlined on the sketch below from an "R3" Multiple-Family District to an "R2-C" Conversion District for a period of one year from third reading of the rezoning by-law or until a District Plan is adopted for the area, whichever should occur first.



After considering all aspects of this matter including the report of the Fort Rouge Community Committee and of the Department of Environmental Planning your Committee does not concur with the recommendations contained in these reports and recommends that the proposed rezoning of the land set out in the first sketch above be not proceeded with.

Moved by Councillor Galanchuk,
Adoption of the clause.

Report of the Committee on Environment, dated August 11th, 1975.

Moved by Councillor Westbury,

That the clause be referred back to the Committee on Environment.

The motion to refer was put.

Councillor Westbury called for the Yeas and Nays which were as follows:

Yea: Councillors Brunka, Eliason, Ireton, Johannson, Jorowski, Klym, Knight, Lazarenko, Perry, Reese, Rizzuto, Ruta, Skowron and Zuken. 14.

Nay: Councillors Bockstael, Dixon, Galanchuk, Gerrie, Hudson, McGonigal, Mercier, Nordman, Norrie, O'Shaughnessy, Parkhill, Penner, Pierce, Rebchuk, Sasaki, Stanes and Stapon. 17.

and the motion to refer was declared lost.

In amendment,

Moved by Councillor Johannson,

Seconded by Councillor Westbury,

That the recommendation of the Committee on Environment be not concurred in and that the proposed rezoning be proceeded with.

The amendment was put.

Councillor Westbury called for the Yeas and Nays which were as follows:

Yea: Councillors Corrin, Eliason, Ireton, Johannson, Jorowski, Knight, Perry, Rebchuk, Reese, Rizzuto, Ruta, Skowron, Robert Steen, Westbury, Wong and Zuken. 16.

Nay: Councillors Bockstael, Brunka, Dixon, Ducharme, Galanchuk, Gerrie, Hallonquist, Hudson, McGonigal, Mercier, Nordman, Norrie, O'Shaughnessy, Parkhill, Penner, Pierce, Sasaki, Stanes and Stapon. 19.

and the amendment was declared lost.

The motion for the adoption of the clause was put and declared carried.

Proposed Zoning Change to Land Bounded
by Logan and William Avenues, Isabel and
Leonard Streets - Centennial Community.
File DAZ 249/75

1372 - 8. The Commissioner of Environment has requested the processing of a zoning change to By-law No. 16502 by rezoning land from a "C2" Commercial District, and "M1" Light Industrial District and an "M2" Light Industrial District as shown on the following sketch, to a "R2" Two-family District.

FOOTNOTES

1. City of Winnipeg, Manitoba. Transcripts of Public Meeting held April 15, 1975, and Adjourned Public Meeting held April 29, 1975. Prepared by Fort Rouge Community Committee Winnipeg, Manitoba, 1975. p.12. Mimeographed.
2. Professor Cameron Harvey, "Law and Local Government", Lecture notes prepared by Professor Cameron Harvey, Faculty of Law, University of Manitoba, p. A-40.
3. L. P. McDonnell, Real Property, International Self-Counsel Press Ltd., Toronto, 1971, p.12.
4. Ibid., p.1.
5. Harvey, op. cit., p. A-47.
6. Overzoning characterizes many areas in or near the central cores of our cities. Developers, as profit maximizers are therefore interested in taking full advantage of such situations by destroying the low density structure and erecting another in order to attain "highest and best use" of the land.
7. Anthony L. Barac, "Strategies for Conservation Through Urban Design", Paper given to conference on Conservation of an Urban Heritage, Grahamstown, South Africa, September 1974, p.8. Mimeographed.
8. John J. Costonis, "Development Rights Transfer" Urban Land. January 1975.
9. J. B. Milner, Community Planning: A Casebook on Law and Administration, University of Toronto Press, Toronto, 1963, p.91.
10. John W. Reps "Requiem for Zoning", Taming Megalopolis, Doubleday Company Inc., New York, pp.746-760.
11. Cited in Urban Planning and Land Development Control Law, by Donald G. Hagman, West Publishing Co., St. Paul, 1971, p.81.
12. Ibid., p.101.
13. Audrey Moore, "T.D.R. as the Solution to Failings of 'Existing' Land Use Controls: Fairfax County, Virginia", Urban Land, January 1975, p.28.

14. Barac, op. cit., p.8.
15. John V. Helb, unpublished paper. The British Development Rights Experience Legislative Services Agency, Trenton, New Jersey, March 1976, p.7.
16. Marc Denhez, Internal Memoranda submitted to the author, February 3, 1977.
17. New York City. Opinion, Fred F. Finch Investing Company, Inc. The City of New York. #160. Prepared by State of New York Court of Appeals. May 4, 1976, p. 1. Mimeographed.
18. John V. Helb, personal correspondence to the author, July 30, 1977.
19. City of Winnipeg, Manitoba. Report of City Council on Proposed Zoning Changes to By-Law No. 16502 - Fort Rouge Community. Prepared by City of Winnipeg, Winnipeg, Manitoba. August 20, 1975, pp.1300-1302. Mimeographed.
20. Andrew Little, "Community Committee Recommends Downzoning" River/Osborne Association of Residents (Winnipeg, Manitoba) Vol. 1, May 10, 1975, p.7.
21. Ibid., p.7.
22. City of Winnipeg, Manitoba. Transcripts of Public Meeting held April 15, 1975, and Adjourned Public Meeting held April 29, 1975. Prepared by Fort Rouge Community Committee. Winnipeg, Manitoba, 1975, p.12. Mimeographed.
23. Ibid., p.25.
24. Ibid., p.32.
25. Ibid., p.32.
26. Ibid., p.33.
27. Ibid., p.34.
28. Ibid., p.41.
29. Ibid., p.42.
30. Ibid., p.45.
31. Ibid., p.49.
32. Ibid., p.58.
33. Ibid., p.99.

34. City of Winnipeg, Manitoba. Correspondence of R. P. Darke (Director of Environmental Planning) with Fort Rouge Community Committee, March 6, 1975, 2 pp.
35. Heritage Canada. A Brown Paper on Heritage Legislation, July 2, 1974, p.16.
36. Department of Environmental Planning, East of Osborne District Planning Group. River/Osborne District Plan 1974. Winnipeg, Manitoba, 1974.

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Books & Articles

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- Blishen, Bernard R., et al. Canadian Society. Toronto: MacMillan and Company, 1964.
- Carmichael, Donald M. "Transferable Development Rights As A Basis for Land Use Control". Florida State Urban Law Review. 35, 1974, pp.53-99.
- Chavooshian, B. Budd, George H. Nieswand and Thomas Norman, "Growth Management Program: A New Planning Approach". Urban Land, January 1975, pp.22-27.
- _____. Transfer of Development Rights: A New Concept in Land Use Management. Leaflet 492-A, New Brunswick: Cooperative Extension Service, Cook College, Rutgers - The State University, 1975.
- Clawson, Marion and Peter Hall. Planning and Urban Growth: An Anglo-American Comparison Baltimore: John Hopkins University Press for Resources for the Future, 1973, pp.39-41 and 161-64.
- Comments, "The Unconstitutionality of Transferable Development," 84 Yale Law Journal 1101, 1975.
- Costonis, John J. "The Chicago Plan: Incentive Zoning and the Preservation of Urban Landmarks". 85 Harvard Law Review 574, 1972.
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