

# **Transferable Development Rights: Preserving Low Density Structures in Downtown Winnipeg**

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**by Stephen Demmings  
1979**

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**The Institute of Urban Studies**





THE UNIVERSITY OF  
WINNIPEG

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**TRANSFERABLE DEVELOPMENT RIGHTS: PRESERVING LOW DENSITY STRUCTURES IN  
DOWNTOWN WINNIPEG**

Published 1979 by the Institute of Urban Studies, University of Winnipeg  
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Note: The cover page and this information page are new replacements, 2016.

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TRANSFERABLE DEVELOPMENT RIGHTS  
PRESERVING LOW DENSITY STRUCTURES  
IN DOWNTOWN WINNIPEG

BY

STEPHEN DEMMINGS

INSTITUTE OF URBAN STUDIES  
JANUARY 1979

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Publication Number - 061  
Institute of Urban Studies  
University of Winnipeg  
Winnipeg, Manitoba

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ISBN 09200684-78-5

Printed in Canada

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## PREFACE

The power to restrict land use in the public interest has created considerable problems for politicians and planners alike. Mike McCandless in an I.U.S. paper, Land Use Planning: The Financial Implication, submitted to the Urban Land Symposium in 1976 discusses the historical attempts of English and Canadian planners to minimize the pressures generated by a system of land use controls which allows some land owners to reap a profit while others bear a loss due to an artificial change in land values. The English attempts to mitigate the conflict between the public and private interest by ending the free-market in development land and the Canadian taxation schemes have largely failed. McCandless in searching for a solution focuses on an American scheme, the Transfer of Development Rights (T.D.R.). He suggests that this concept presents a feasible method of compensating the affected owner for changes in land values created by zoning and development controls.

The American experience has, however, focused almost exclusively on the use of T.D.R.'s to preserve agricultural land. In this study, Stephen Demmings discusses the use of T.D.R.'s not for development of the urban fringe but as a tool for the preservation of inner city neighbourhoods where the pressure for redevelopment is intense.

In contrast to the theoretical nature of the earlier McCandless paper, this study demonstrates the feasibility of a T.D.R. scheme in one of Winnipeg's center city neighbourhoods, the River Osborne district of Fort Rouge. Demmings chose this district because the process of redevelopment has created a struggle between those property owners who wish to see redevelopment of the low density neighbourhood to high density apartments and those who want to retain and improve the existing housing stock.

Mr. Deamings study is based on his thesis prepared for the Department of City Planning at the University of Manitoba. Chapter 1 examines the economics of urban preservation and the concept of transferable development rights. Chapters 2, 3 and 4 focus on the study area and include a discussion of the forces at work leading to the redevelopment of the area, the attitudes of residents towards redevelopment and the criteria upon which a T.D.R. program should be based. In Chapter 5 a design for a T.D.R. program for the River Osborne district is proposed along with a strategy for implementing the design. The authors conclusions regarding the feasibility of this T.D.R. program are found in Chapter 6.

## CHAPTER 1. THE ECONOMICS OF URBAN PRESERVATION

Inner city areas 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, has been given inadequate attention by urban planners. Attempts to preserve inner city neighbourhoods will only fail unless they come to grips with the role of economics in its creation of pressures for redevelopment.

Today, land is viewed as a commodity rather than a resource from which the owner has been permitted to maximize economic benefits, subject only to public regulation. The public sector, although it possesses power to control and direct the use and development of private land, is faced with two constraints. First, it is argued by those in the private sector that economic development and growth should not be discouraged - that too many public regulations inhibit economic growth. Second, 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 individual rights to re-develop land. The public and private sectors are therefore often antagonists not partners in the redevelopment of inner city neighbourhoods.

### ZONING AND CONTEMPORARY PROBLEMS

Urban development must be viewed as a dynamic, changing, on-going process. 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.

John W. Reps in reference to zoning has stated:

Zoning served us 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.<sup>1</sup>

Zoning can no longer deal 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.

Zoning was originally 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 Manitoba 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 buildings, structures and land for trade, industry, residence, or other purposes.<sup>2</sup>

Zoning does not treat people uniformly. It has in fact tended to provide tremendous opportunities for financial gain for individuals

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1. John W. Reps, "Requiem for Zoning," Taming Megalopolis, (New York: Doubleday Company, Inc., 1967) pp. 746-760.

2. Audrey Moore, "T.D.R. as the Solution to Failings of 'Existing' Land Use Controls: Fairfax County, Virginia," Urban Land, (January 1975), p. 28.

owning parcels of land that have been re-zoned for "the highest and best use." At the same time zoning may also postpone or prohibit future development of land for some individuals, thus depriving them of financial gain. In many other cases for some owners the value of these destroyed "rights to develop" have in effect been transferred completely free of charge to other landowners whose property was not governed by the same zoning restrictions, thus allowing them "windfall profits". In short, our zoning laws have not been effective because they have not been fair in their treatment of equity and have resulted in "windfalls" for some and "wipeouts" for other property owners.

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. The principal benefits in terms of equity have been accrued by the "haves" at the expense of the "have-nots."

When there is a demand for land, the principal determinants of land value are zoning and the location of public facilities in relation to land. 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. In our central cities we are rezoning in increasing intensity and at higher densities on a piece-meal, ad hoc basis, without due concern or understanding of economics or control of land use.

A similar type of situation has occurred in the Fort Rouge District of the City of Winnipeg. The use of "spot-zoning" has resulted in increasing numbers of units permitted on an acre of land. Examples of this are the Fifty-Five Nassau, and the Evergreen Place apartment blocks. 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."

Zoning has failed to create sound development and redevelopment in our urban centres with increasing 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. 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."

## DEVELOPMENT RIGHTS

Development rights are usually the land-owner's most valuable "right". In Canada, the increasing use of land use controls illustrates the public's interest in development rights. The use of government restrictions on land use infers 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) do they not have the obligation to employ measures that will ensure the protection of public values such as historic buildings, centre-city neighbourhoods? Because the value of urban land is in part a reflection of a community's growth and the services offered by the community, should not the public be entitled to a portion of this unearned increment in land value? As the value of land escalates, should the public 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?

There are many measures available for recapturing added value, some of which are public acquisition, taxation policies, and "transfer of development rights", (T.D.R.). 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 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 outweigh the individual property owner's right to develop land? Many land use regulations are essential in order that individuals are permitted to pursue the legitimate enjoyment of their own rights without the fear or threat of injury. Milner states:

The principle is at its lowest 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 land-owner's use of his land as to amount to a taking away from him of a proprietary interest in the land.<sup>3</sup>

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.

#### TRANSFER OF DEVELOPMENT RIGHTS

By definition a development right is the difference between the density permitted under existing zoning and that density which would be permitted under an upzoning by-law for a particular parcel of land. 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 develop 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 property value which result from zoning. 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 location for a transfer of development rights program would be an area in or near the urban core which possessed these characteristics:

There are lots that are readily available for redevelopment.

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3. J.B. Milner, Community Planning: A Casebook on Law and Administration, (Toronto: University of Toronto Press, 1963), p. 91.

The zoning does not permit the greatest density that municipal services could handle.

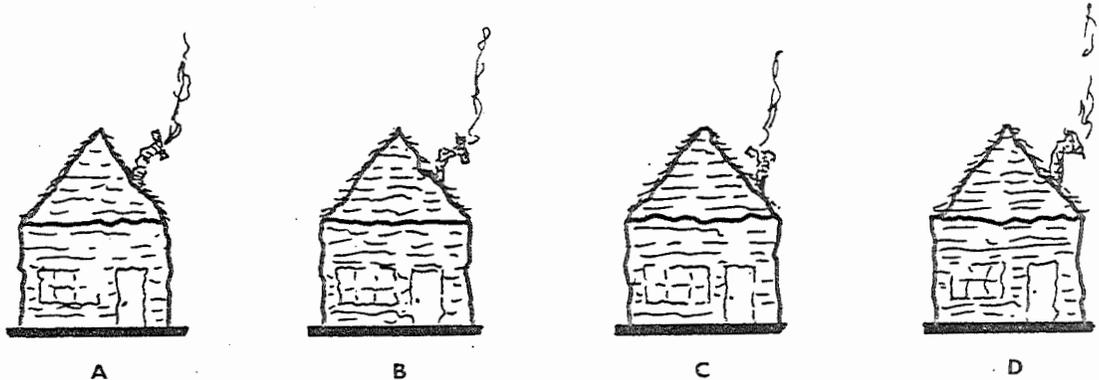
The area is characterized by increasing land values. (Transfer programs can only be implemented in times of intense market activity and escalating land price. In a depressed market there is no threat to centre-city neighbourhoods or historic buildings and there would consequently be no demand for the development rights.)

#### EFFECTS OF LAND USE LEGISLATION UPON EQUITY

Illustrations A, B and C demonstrate the effects upon equity of a zoning by-law versus a transferable development rights by-law for 4 adjacent owners of low density structures. However, it must be first assumed that all the low density structures are identical in terms of physical attributes, economic value, one of the properties will be up-zoned, and the remaining structures are to be preserved in single family use.

A.\*

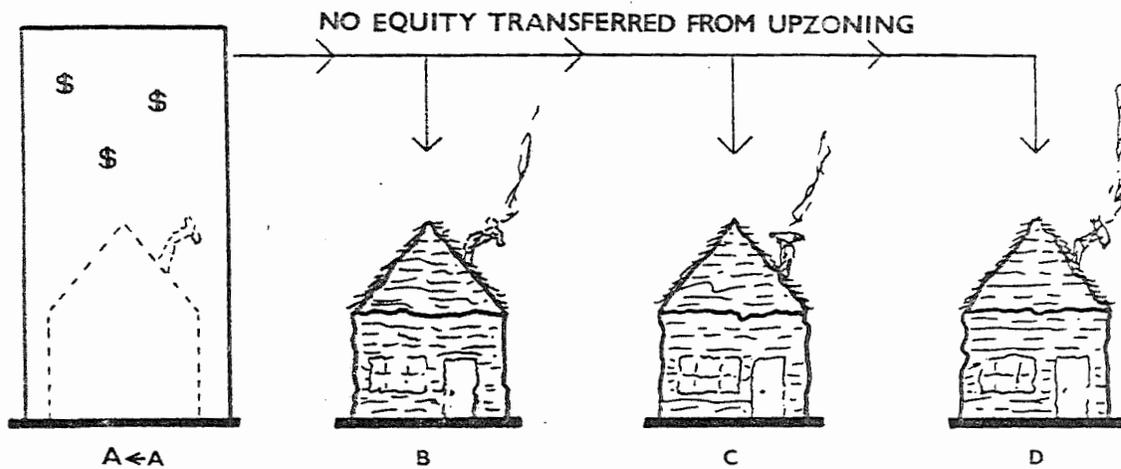
### PRESENT CONDITION OF LOW DENSITY STRUCTURES



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

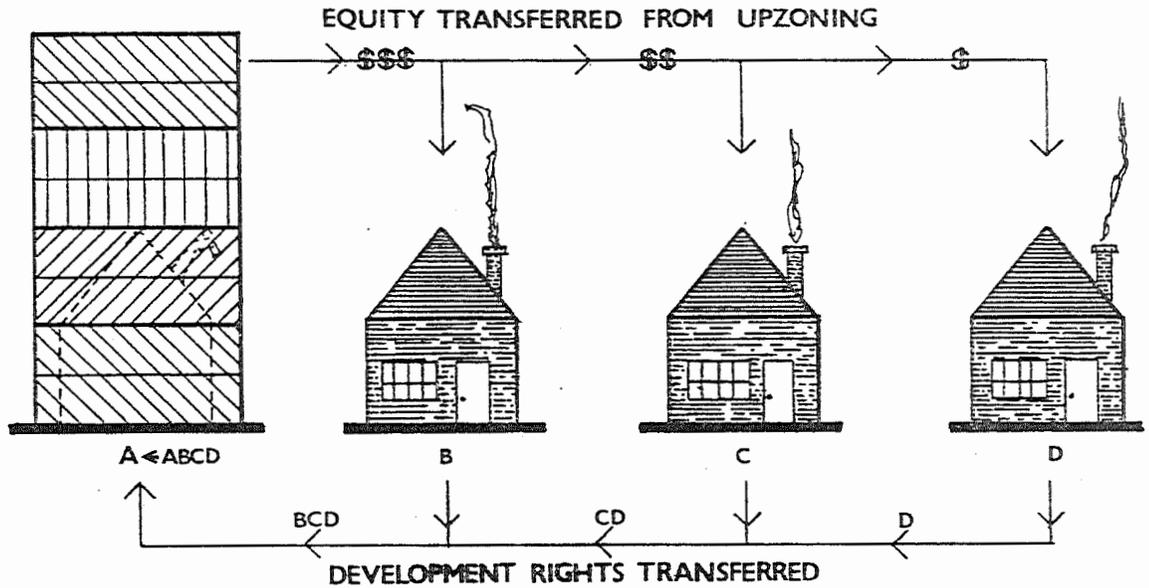
\* Illustrations by David. L. Rapson.

## B. EFFECT OF UPZONING



1. Owner "A" as a result of the municipality's upzoning by-law receives an economic "windfall" by selling his property to a developer.
2. The developer erects an eight story 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 by-law owners A, B, C and D are each allotted two development rights.
2. To develop to maximum density 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.

## STATEMENT OF PRESERVATION PROBLEM

Legislation designed for the purpose of preserving older structures or deteriorating neighbourhoods must develop an economic strategy in order to 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, therefore making the concept more politically palatable.

It is acknowledged that development rights programs applied to areas of an already established urban environment will demand all the integrity, resourcefulness and 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 to 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.



## CHAPTER 2. THE STUDY AREA

Field trips to the River/Osborne District, conducted during the early part of the research revealed that the housing stock was in relatively good condition and despite its age there were visible attempts by neighbourhood residents to repair and maintain their homes and properties. This phenomenon was markedly evident in that area bounded by River Avenue, Wellington Crescent and Stradbrook Avenue. Furthermore, there appeared (from preliminary field trips) that there was a high percentage of owner-occupiers living in this area. As a consequence of these findings it was decided to engage in the task of researching this district by interviewing its residents and to ascertain if the preservation of low density dwellings in this area was a desired public objective.

### THE STUDY AREA

The area west of Osborne Street, enclosed by River Avenue to the north, Stradbrook Avenue to the south and Wellington Crescent on the west (See Map I) is currently facing intense pressures to redevelop from a district of low density structures to high density apartments. Of the one hundred and six existing structures in this area, more than 90% are low density, generally over sixty years of age with great character and charm, but in various stages of deterioration and disrepair.

Moreover, the Osborne Street commercial corridor has in recent years, provided a focal point of activity for district residents and an area of interest for the citizens of greater Winnipeg. The process of development and redevelopment along Osborne Street has reached such proportions that many area residents are being approached to sell their homes in order that they may be demolished to provide parking facilities for commercial enterprises. During the last five years in the midst of increasing pressures to redevelop, a protracted struggle has arisen between the residents who wish

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to see the area retain its low density character. This process has reached a stage where many of the single family structures have already been converted into double dwellings, duplex conversions and multiple dwellings or are being used for institutional uses such as nursing homes and halfway houses.

In spite of these formidable pressures, there is also significant renovation activity in the area, especially among younger households with two incomes. Among owner-occupiers of low density structures who were interviewed in the study area 90.9% felt that the existing housing stock should be preserved. On the basis of this finding, a Transfer of Development Rights scheme has been proposed as a planning tool to provide economic assistance for the rehabilitation of the existing housing stock.

#### THE RIVER/OSBORNE SURVEY

The survey was designed to gain an insight into "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 houses could be detected, such an occurrence would indicate a willingness on the part of owner-occupiers to continue residing in the area and an interest in the preservation of the existing housing stock.

It must be emphasized that only if a substantial number of owner-occupiers desire preservation of the housing stock should programs such as transfer of development rights be considered as a preservation tool. The River/Osborne home ownership survey (see Appendix A) was a personally administered survey designed for the following purposes:

To provide first hand knowledge of "neighbourhood character;"

To gain an insight into the "owner-occupiers future investment plans and patterns;"

To provide data to trace the historical development of the neighbourhood, to determine from resident's points of view how and to what extent their area had changed over the years and to assess the resident's attitudes toward these changes.

The study area (see Map 1) is bordered by River Avenue on the north, the rear lane on the south side of Stradbrook Avenue, Wellington Crescent on the west and on the east by the rear lane immediately east of Gerard Street.

According to the City of Winnipeg assessment records 47 dwellings in the study area were owner occupied. However, it was found that 5 were occupied by non-owners and 5 homes were unoccupied at the time of the survey. Four home-owners refused to respond to the questionnaire.

The sample of homes surveyed represents a selected 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 housing preservation, housing demolition, and compensation from among the thirty-three owner-occupiers surveyed.

Among those homes interviewed, length of residency varied between two days to forty-two years. Nine of the fifteen homes occupied for three years or less were found in the Gerard-Norquay Street area. Average length of residency among owner-occupiers tends to increase as one moves east to west through the study area.

It is along those streets which are in closest proximity to the Osborne Street commercial corridor that the process of change in neighbourhood character is most clearly evident. The redevelopment of Osborne Street has created social externalities by attracting a particular type of home buyer who is seeking to find housing accommodation close to where "things are happening."



Table 1  
Classification of Interviewees by Sex

Sex	Number of Responses	Percentage
Male	16	48.5
Female	17	51.5
TOTAL	33	100.00

Table 2  
Classification of Interviewees by Marital Status

Marital Status	Number of Responses	Percentage
Single	3	9.1
Married	20	60.6
Separated	5	15.1
Divorced	2	6.1
Widowed	2	6.1
Other	1	3.0
TOTAL	33	100.00

Table 3  
Number of Children in Household

Number of Children	Number of Households	Percentage
0	8	24.2
1	6	18.3
2	11	33.3
3	3	9.1
4	3	9.1
5	1	3.0
6	1	3.0
TOTAL	33	100.0

Table 4  
Employment Status of Interviewees

Employment Status	Number of Responses	Percentage
Full Time	19	57.6
Part Time	3	9.1
Retired	5	15.1
Self-employed	3	9.1
Student	2	6.1
Other	1	3.0
TOTAL	33	100.0

Table 5  
Length of Residency of Owner-Occupiers

Years	Number of Responses	Percentage
0-3	15	45.4
4-7	1	3.0
8-10	3	9.1
11-13	2	6.1
14-17	1	3.0
18-21	2	6.1
22-25	3	9.1
26-29	2	6.1
30+	4	12.1
TOTAL	33	100.0

### CHAPTER 3. ISSUES OF CONCERN TO RESIDENTS 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."

#### 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 was 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:

It has resulted in decreased safety to children;

It has resulted in Gerard Street being used as a "convenience parking lot";

It has infringed upon the residents' "rights" to use the street in front of their homes for the parking of their own vehicles;

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 interviewed in this area, 30% expressed concern over the lack of recreational facilities for young children. Related complaints included the inaccessibility 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:

Their neighbourhood was furnished by excellent bus services to the Downtown and the Pembina/Osborne Street interchange.

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:

The street was judged to be a friendly place in which to live.

The street was quieter than it had been in the past.

There was an out-migration of older residents and an in-migration of young couples who were interested in "renovation."

There had, in recent years been a 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 lack lane east of Gerard Street was a concern to them. Problems originating from traffic flow manifested themselves in a number of ways:

Increased traffic was felt to originate from Safeway customers using the back lanes as a short cut to Nassau Street.

Increased traffic flow meant decreased safety to neighbourhood children.

Related problems as a consequence of vehicle flow but not necessarily originating from the new developments along Osborne Street or the Safeway shopping complex constituted disruptions to neighbourhood parking, resulting from church services and weddings, 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 were issues 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, WILMONT 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 vehicular flow were a concern of 44% of homes interviewed. An issue of greater concern to 77% of the owner-occupiers of dwelling 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:

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

The area lacks a good swimming pool.

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

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. Many relevant views were raised. Realignment of this particular intersection has had far reaching consequences in that greater volumes of traffic now use this route as a faster means of egressing from the city centre. 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. 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 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 Alcoholism Foundation of Manitoba, nursing homes and fraternity houses. In addition, A.F.M. 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 Stradbroke 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. Institutional organizations 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, and do not add to the "community". 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" is a continuing source of concern to some residents. 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.

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CHAPTER 4. PRESERVATION OR REDEVELOPMENT: ATTITUDES OF OWNER-OCCUPIERS

It has been emphasized in an earlier chapter that land use preservation measures implemented without a constituency are doomed to failure. It is futile for government to design preservation legislation such as transfer of development rights for any area of an urban environment if the general public does not wish the preservation designation. In light of the foregoing, the following questions were asked of the owner-occupiers of low density structures in the study area.

Table 6  
Do You Feel That Homes in the River/Osborne District  
Are Worthy of Preservation? (Question 6)

Response	Number	Percentage
Yes	30	90.9
No	2	6.1
Don't Know	1	3.0
TOTAL	33	100.0

As may be seen from Table 6 more than 90% of owner-occupiers interviewed felt that homes should be preserved. On Stradbroom 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 as follows:

### Anti-Preservation Argument

"Homes along Stradbrook 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 surveys were conducted 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.

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.F.M., nursing homes and fraternity houses. Why should the houses of the area be preserved?

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.

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.

Political representatives do not represent the feelings of owner-occupiers in terms of the preservation issue.

### Pro-Preservation Arguments

"These homes represent an alternative to apartment living."

Homes are rich in terms of an abundance of interior and exterior living spaces.

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.

"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 7  
Do You Feel That the Removal Of Single Family Homes  
in the River/Osborne District Is Of Concern to You? (Question 7)

Response	Number	Percentage
Yes	28	84.9
No	4	12.1
Don't know	1	3.0
TOTAL	33	100.0

The high positive responses to questions six and seven, as depicted in Tables 6 and 7 are statistically significant in analyzing the issue of preservation of the existing housing stock in the River/Osborne District. It was therefore concluded that owner-occupier of homes in the area bordered by Wellington Crescent, the rear lane south of Stradbrook Avenue, River Avenue, and the rear lane east of Gerard Street wish to have the existing housing stock preserved.

In addition, question 3G of the questionnaire, summarized in Table 8, illustrates owner-occupier's commitment to preservation of the housing stock. Maintenance expenditure as depicted in Table 10 affirms the resident's preservation commitment as illustrated in Table 8.

Table 8  
Have You Made Renovations/Repairs To Your Home  
Since Moving In? (Question 3g)

Response	Number	Percentage
Yes	27	81.8
No	6	18.2
TOTAL	33	100.0

Table 9  
 Do You Anticipate Making Renovations/Repairs to Your  
 Home in the Immediate Future (Next 5 Years)? (Question 3j)

Response	Number	Percentage
Yes	24	72.7
No	9	27.3
TOTAL	33	100.0

Although renovations and repairs to housing accommodations are 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. Tables 10 and 11 summarize maintenance expenditures during the last five among homes surveyed.

**Table 10\***  
Renovations To Owner-Occupied Homes in Study Area (1972-1977)

Address	Nature of Repairs					Cost to Nearest \$100			
A	1	5	6	7	13	14	12,000		
B	8	9	12				1,500		
C	1	7	8	12			6,000		
D	9						1,500		
E	1	3	7	8	9		7,000		
F	8	9					N/A		
G	3	6	8				5,000		
H	7	8	9				N/A		
I	3	6	8	12			10,000		
J	1	7	8	9	15		5,000		
K	3	6	7	12			8,000		
L	5	6	10	13			10,000		
M	8	9	12				4,000		
N	4	7	12	14			14,000		
O	8	9	11	12			N/A		
P	4	8					5,000		
Q	10						600		
R	3	4	7	8	9	12	5,000		
S	6	7	8	9	11		5,000		
T	5	7	8				200		
U	8	9	15				200		
V	3	4	5	6	8	12	13	14	8,500
W	4	7	8	9					N/A
X	6	7	8	9					3,000
Y	3	8	9	12					2,500
Z	8								N/A
Z <sub>1</sub>	7	8		9	12	14	15		7,000

- KEY
- 1. Room(s) Added (4)
  - 2. Room(s) Deleted -
  - 3. Room(s) Remodeled (6)
  - 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)

\*In Table 10 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. Frequency of response is indicated to the right of types of repairs.

Table 11\*  
 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			
J	1	9	12	
K	3	11	12	15
L	9			
M	9	12		
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)

\*No priority is attached to numerical designation for nature of repairs in Table Eleven.

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

CHAPTER 5. DESIGN OF A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM FOR THE STUDY AREA

The transfer of development rights program proposed is a planning tool designed to provide economic assistance for the rehabilitation of low density residential structures in the study area. A basic requirement for a transfer of development rights program is the existence of a well defined area which is experiencing substantial pressures to redevelop yet maintains a desire for preservation. The study area meets this requirement. The transfer of development rights program advocated is designed to partially compensate those property owners denied future capital gains because of preservation designation.

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;

Those who have a vested interest in redevelopment, for example 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 in fact 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;

Those property owners who want to maintain detached homes but must now accept densities higher than they would wish in the study area would also receive compensation.

## INITIATING THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

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 Planning Department of the City of Winnipeg could 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 would be the City of Winnipeg's Land Titles Office. Its function would be as a central marketing development rights agency that would ensure a free market for the sale of development rights. It would operate in much the same way that a "stock market" would function where 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.

## THE TRANSFER OF DEVELOPMENT RIGHTS SCENARIO

The boundaries of the transfer and preservation districts have been selected so as to internalize the "externalities" of the rezoning by-law 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" is 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 immediately north of Stradbrook Avenue. It is proposed that the latter area should be upzoned to accommodate high density structures subject to analysis of existing services potential within the district and full consideration and adherence to sound 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 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 economics of scale, but only after returning to the community compensation in terms of the purchase of their development rights for his right to build to higher density.

#### CRITERIA FOR VALUATION OF "RIGHTS"

Among the low density structures in the study area many may be found to be beyond the concept of rehabilitation 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.

#### 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.

#### THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM THROUGH TIME

Transfer of Development Rights proponents can only theorize about the types of urban problems that will dominate today's transfer of development rights district at some point in the future. Similarly, as conditions change in the future, perhaps more development shall be deemed a desirable public objective for the transfer

of development rights district. Therefore a continuous market for the development rights should be envisaged. 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 up-zoned district should be used in creating a sliding scale for the sale of development rights.

#### SLIDING SCALE FOR VALUATION OF DEVELOPMENT RIGHTS

The model depicted in Map 2 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 up zoned district the value of the rights would decline to zero. This would in effect help to establish the perimeters of the preservation district.<sup>4</sup>

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.

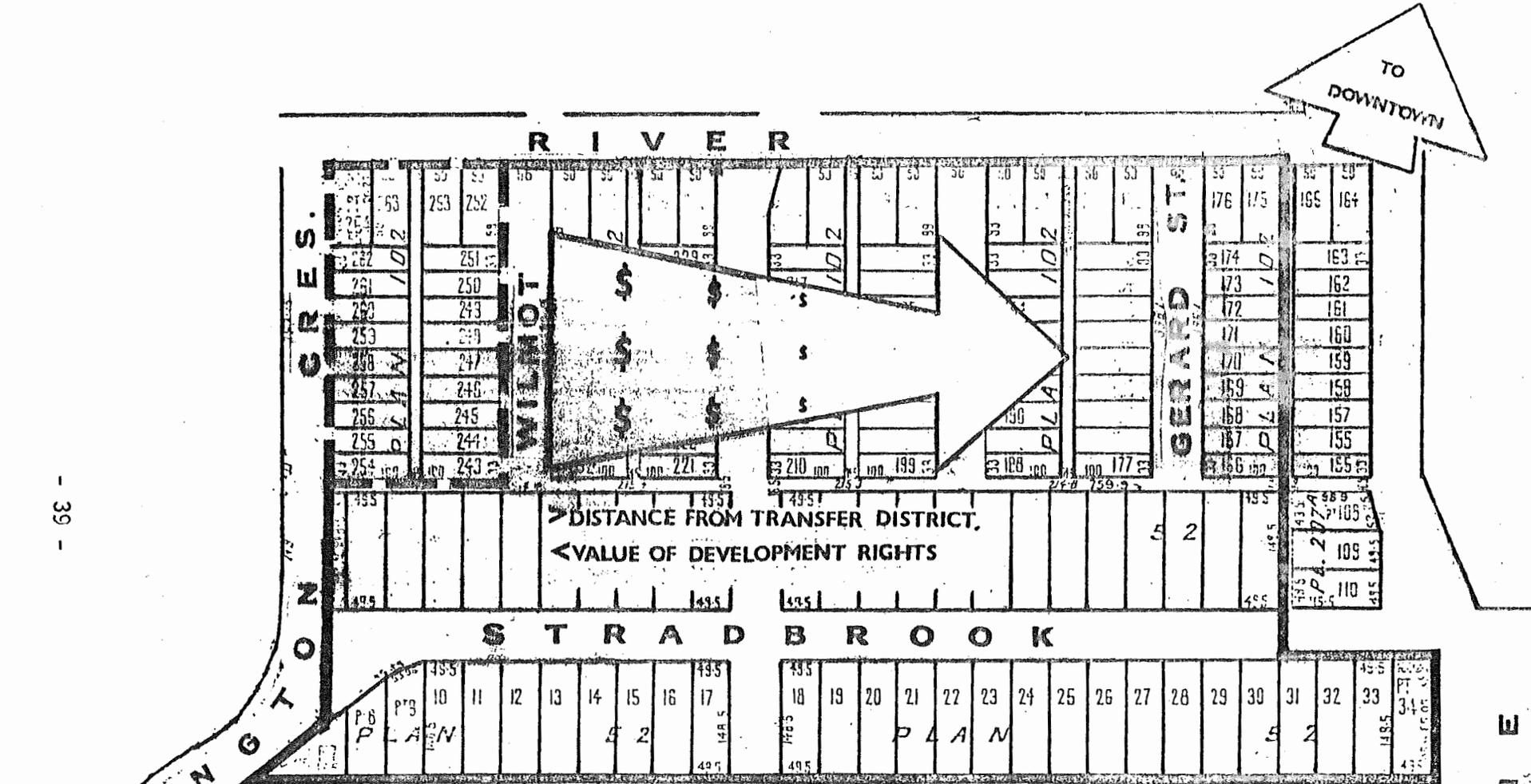
#### REHABILITATION

After 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 insure that funds are invested for rehabilitation the transfer of development rights legislation may include the concept of "compliance" to insure that all or a fixed portion of the compensation payments are used for rehabilitation work.

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 Transfer of Development Rights ordinance should not be to constrict development but to encourage preservation.

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4. 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.



MAP 2

TRANSFER OF DEVELOPMENT RIGHTS SCENARIO

**KEY**

TRANSFER DISTRICT

PRESERVATION DISTRICT

SCALE 1" = 200'

W E L L I N G T O N C R E S .  
W I L N O T  
S T R A D B R O O K  
G E R A R D S T .  
T O  
D O W N T O W N



## CHAPTER 6. RECOMMENDATIONS

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:

Governments, at the federal, provincial and local level assume a more active role in the designation of landmark structures and historical sites.

The resolution of the conflict between the private and the public sectors is essential to the success of any preservation legislation.

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 to pay for what its preservationists want. Similarly 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.

### OPPOSITION TO TRANSFER OF DEVELOPMENT RIGHTS PROGRAMS

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. 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 redevelopment 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 home owner 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 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. Moreover, it is essential that the owners of property designated for redevelopment receive equal consideration before the law and that they receive just compensation such that they derive a "fair return" on their investment.

Transfer of development rights 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.

#### SUMMATION

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. 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 here-tofore 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 conditions in society changed. The need is evident 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.

In summation, transfer of development rights is not a panacea. It will not replace sound planning or zoning nor are these purposes for which the concept is intended. What it will do is help to facilitate planning once the objective for which transfer of development rights 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, if the rehabilitation of low density structures in the study area is a desired public objective and 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

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 \_\_\_\_\_  
 Rooms 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) \_\_\_\_\_ Second Floor \_\_\_\_\_  
 Basement \_\_\_\_\_ Other \_\_\_\_\_  
 Main Floor \_\_\_\_\_

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 that 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 5 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 \_\_\_\_\_