Report - Executive Policy Committee - September 3, 2008

Item No. 3 Rezoning - 433 River Avenue
(Fort Rouge-East Fort Garry Ward)
File DAZ 223/2008

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 3, 2008, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submits the following to Council:

1. That The Winnipeg Zoning By-law No. 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 223/2008 dated July 13, 2008 to an "RMU" Residential Mixed Use District, subject to the following:

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

        i. That any drinking establishment on the subject land has a gross floor area no more than 3,500 square feet.

        ii. That any drinking establishment on the subject land shall be closed and not operating from 11:00 p.m. to 11:00 a.m.

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

        iv. That, for the development of any fencing, landscaping or signage, plans shall be submitted showing the locations and designs of said items to the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

Report - Executive Policy Committee - September 3, 2008

v. That all lighting, including illuminated signage, shall, upon the request of the Director of Planning, Property and Development, be equipped with whatever additional shielding, lenses, or cut-off devices that would be required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptual to persons on any street or abutting lot or parcel. In addition, the Director may require that the light trespass and glare be limited to a reasonable level through fixture location, height and intensity to the satisfaction of the Director of Planning, Property and Development.

2. That Caveat No. 88-20726 be withdrawn as it affects Lots 9 and 10, Block 2, Plan 314.

3. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

4. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

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

6. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

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

8. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

Report - Executive Policy Committee - September 3, 2008

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 3, 2008, the Executive Policy Committee concurred in the recommendation of the City Centre Community Committee and submitted the matter to Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 14, 2008, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

RE: **Rezoning - 433 River Avenue**
File DAZ 223/2008 [c/r DCU 125273/2008D and DAV 125269/2008D]

For submission to: **Executive Policy Committee**

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

Report date: **July 15, 2008**

COMMUNITY COMMITTEE RECOMMENDATION:

On July 14, 2008, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommends to the Executive Policy Committee.

1. That The Winnipeg Zoning By-law 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 223/08 dated July 13, 2008 to an "RMU" Residential Mixed Use District, subject to the following:

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

        i. That any drinking establishment on the subject land has a gross floor area no more than 3,500 square feet.

        ii. That any drinking establishment on the subject land shall be closed and not operating from 11:00 p.m. to 11:00 a.m.

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

        iv. That, for the development of any fencing, landscaping or signage, plans shall be submitted showing the locations and designs of said items to the Director of Planning, Property and Development for plan approval prior to the issuance of any building or development permit, and thereafter all to be maintained to the satisfaction of the Director of Planning, Property and Development.

        v. That all lighting, including illuminated signage, shall, upon the request of the Director of Planning, Property and Development, be equipped with whatever additional shielding, lenses, or cut-off devices that would be

required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptual to persons on any street or abutting lot or parcel. In addition, the Director may require that the light trespass and glare be limited to a reasonable level through fixture location, height and intensity to the satisfaction of the Director of Planning, Property and Development.

2. That Caveat # 88-20726 be withdrawn as it affects Lots 9 & 10, Block 2, Plan 314.

3. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

4. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless an extension of time is applied for prior to the expiry of this twenty-four (24) month period and the extension is subsequently approved by Council.

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

6. That the rezoning by-law shall come into effect when the Zoning Agreement has been registered by caveat against the subject land at the Winnipeg Land Titles Office, provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

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

8. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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

1. The project is in keeping with the neighbourhood uses and will fit in well with the senior’s residence.

PUBLIC HEARING SUMMARY

File:	DAZ 223/2008 [c/r DCU 125273/2008D and DAV 125269/2008D]
Before:	City Centre Community Committee Councillor Leipsic, Chairperson Councillor Gerbasi Councillor Smith
Hearing:	July 14, 2008 North Committee Room Council Building, 510 Main Street
Applicant:	Villa Cabrini Inc. (Josie Lucidi)
Subject:	
Premises Affected:	433 River Avenue
Exhibits Filed:	1. Application dated June 16, 2008 2. Notification of Public Hearing dated June 23, 2008 3. Manitoba Status of Title 1150063

4. Letter of authorization dated June 4, 2008 from the President of the Board of Directors, Villa Cabrini Inc., to Josie Lucidi, Executive Director, Villa Cabrini Inc., and to Army, Navy Air Force Veterans in Canada
5. Surveyor's Building Location Certificate and sketch dated March 13, 1984
6. Caveat 84-20726 registered in the Winnipeg Land Titles Office on March 10, 1984
7. Plans (7 pages)
8. Report from the Planning and Land Use Division dated July 13, 2008
9. Inspection Report
10. Audio Recording of representations
11. Petition in support of the application pertaining to contain the signatures of 100 residents, submitted by the applicant.

REPRESENTATIONS:

In Support:

Anita M. Abbott
Margaret Altarui
Samuel Argenziano
Katharine Blaschuk
Anna W. Brown
Ruth Cronin
Donald Dampsy
Elizabeth Fisher
Catherine French
Emma Frost
Anne Funk
Eva Giardino
Eileen Glanfield
Daniel Goldstine
Victor Goncalves
Dianne Jackman
Irene Landreville
Josie Lucidi, Villa Cabrini Inc.
D. Grant and Diana McIntosh
Arthur and Elsa Michael
Joyce Milgaard
A. Blanche Miller
Tony Romeo
Wes Schollenberg
Catherine Sherbo
Rose Sherbo
Rick Steckler
Michael Stronger
Leif Thorsteinson
Maire Timoney
Shelach T. Twomey
Peter Van de Mosselaer
Martha Vargas
Chris Vodrey
Louise Whyte
Jim Yunyk

In Opposition

Nil

For Information:

Nil

For the City:

Mr. G. Doney, Senior Planner, Planning, Property and Development Department

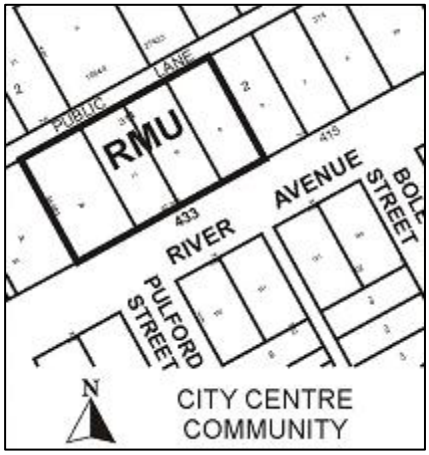
Exhibit "8" referred to in File DAZ 223/2008 [c/r DCU 125273/2008D and DAV 125269/2008D]

Winnipeg

Planning, Property and Development Department Report

To the City Centre Community Committee

Date:	July 13, 2008
File:	**DAZ 223/08**
Related Files:	DCU 08-125273/D and DAV 08-125269/D
Subject:	**Rezone from "RMF-L" to "RMU" to allow commercial uses.**
Location:	**Units 2 and 3, 433 River Avenue, River-Osborne Neighbourhood, Fort Rouge – East Fort Garry Ward**
Legal Description:	Lots 9 and 10, Block 2, Plan 314; and Lot 25, Plan 27423



Applicant:	**Villa Cabrini Inc. – Josie Lucidi**
Owner:	**University of Winnipeg Educational Housing Corporation**
Recommendation:	**Approval with Conditions**

Summary:

- The rezoning to RMU from RMF will allow the establishment of commerical uses on the ground floor of Villa Cabrini and will make the non-conforming uses, conforming.

- The RMU districts allows Drinking Establishments, Restaurants, Office, Pesonal Services, Clinics, and Retial Sales that would not be permitted in the RMF district.
- The proposed rezoning conforms to Plan Winnipeg and the Osborne Village Neighbourhood Plan.
- The compatibility of any proposed development of the subject land with existing developments can be further ensured by restricting hours of operation, signage and lighting.

Site Description

The subject land is the Villa Cabrini residential building on the north side of River Avenue in the River-Osborne Neighbourhood in the Fort Rouge – East Fort Garry Ward.

- lot area and lot width of approximately 26,400 square feet and 220 feet;
- developed in 1985 as an eight storey seniors' multiple-family dwelling, with commercial space on the ground floor, as shown in Figure 2, and underground parking;
- the existing commercial uses are restaurant, personal service, dental clinic, retail sales and two units are vacant and are the location for the proposed drinking establishment;
- is in a Neighbourhood policy area as per Policy Plate "A", Land Use, *Plan Winnipeg, 2020 Vision;*
- is in a Village High Density Residential (V-HDR) policy area of the Osborne Village Neighbourhood Plan; and
- is in an "RMF-L" Residential Multiple-Family District (higher density), as shown in Figure 3.

Existing uses that are in the vicinity of the subject land, as shown in Figure 2, are

- a place of worship,
- a theatre,
- several multiple family dwellings, one of which is also an office use,
- a single-room occupancy use that is a medical receiving facility and
- a two-family dwelling.

Existing zoning districts that are in the vicinity of the subject land, as shown in Figure 3, are

- "RMF-M" Residential Multiple-Family (medium density),
- "C2" Commercial Community,
- "C1" Commercial Neighbourhood and
- "R2" Residential Two-Family.

Background

DAZ 260/82 & AAP 16/82
An application was made to rezone the subject property under Winnipeg Zoning By-law 16502 to allow the construction of a multiple family dwelling (Seniors) for 123 dwelling units.

The River Osborne Action Area Plan was required an amendment to allow an increase in density from 75 dwelling units per acre to 203 units per acre.

The Rezoning and the Action Area plan Amendment were both approved by Council in 1982. The new 'C3-B' zone under Winnipeg Zoning By-law 16502 allowed commercial uses found in the C2, which included private clubs as conditional uses.

Winnipeg Zoning By-law 6400/94
Under Zoning by-law 6400/94, the subject property was classified as a 'RM' Multiple Family District. This Residential zone only allowed commercial uses permitted or conditional in C1 Districts. Licensed Club were no longer permitted; Retail Sales, Restaurants, were 'Conditional'.

Winnipeg Zoning By-law 200/06
Under Zoning by-law 6400/94, the subject property was classified as a 'RMF' Multiple Family District, which does not allow any commercial uses. The existing commercial uses on the ground floor became non-conforming: a building, or a use of real property, that complies with zoning by-laws before the adoption of a new zoning by-law may continue notwithstanding that the building or use does not conform with the provisions of the new zoning by-law. The non-conforming rights to commercial uses on the property will lost be if the building or the use is abandoned or not so used for 12 consecutive months.

Description of the Proposed Development

The change in zoning is required to allow the redevelopment of approximately 3,160 square feet of floor space – Units 2 and 3 of 433 River Avenue – into a drinking establishment, specifically, a licensed private club for the Army, Navy and Air Force Veterans in Canada Association.

Analysis

Plan Winnipeg

The proposed rezoning from "RMF-L" Residential Multiple-Family District (higher density) to "RMU" Residential Mixed-Use District conforms to *Plan Winnipeg 2020 Vision* because the subject land is in a Neighbourhood policy area.

Osborne Village Neighbourhood Plan

The proposed rezoning conforms to the Osborne Village Neighbourhood Plan because the subject land is in a V-HDR policy area whereby Policy 4.1.4.B states: "Mixed-use buildings combining residential with low-intensity office or commercial uses on the ground floor may be approved on River Avenue…".

Zoning By-law 200/2006

- **RMF-L Residential Multi-Family District – Large** is intended to accommodate the development of multi-family units in neighbourhoods with medium to high residential densities. There is a front & rear yard requirement of 25 feet and the maximum building height is 150 feet. The minimum lot area 20,000 square feet (400 square feet per dwelling unit).

- **RMU Residential Mixed Use District** is intended to facilitate the development of primarily medium- to higher-density residential development, though it also may contain limited small-scale commercial, institutional, recreational, and service facilities needed to support residential development. The area, site, or building should retain a predominantly residential character. Development in the RMU district should facilitate and encourage pedestrian travel between residential and nonresidential uses. This district is often adjacent and incidental to a town centre, neighbourhood commercial centre, or other type of mixed use or major employment centre. There is a front yard requirement of 20 feet and a rear yard of 25 feet. The maximum building height is 100 feet. The minimum lot area 9,000 square feet (500 square feet per dwelling unit).

- The rezoning to RMU from RMF will allow the establishment of commerical uses on the ground floor of Villa Cabrini and will make the non-conforming uses, conforming.

- The RMU districts allows Drinking Establishments, Restaurants, Office, Pesonal Services, Clinics, and Retial Sales that would not be permitted in the RMF district.

A temporary change in use variance of the "RMF-L" District has been applied for to establish the use before the rezoning the subject land to"RMU" District takes place. A drinking establishment is a conditional use in the "RMU" District. All yard depth requirements of the "RMU" District must be varied because existing yards are quite shallow – less than 0.09 feet (approximately one inch).

While a variance or conditional use order can be appealed to the Appeals Committee, the Community Committee's recommendations regarding a rezoning proceeds to Council without an additional public hearing.

Compatibility with Existing Developments in the Vicinity

The proposed drinking establishment is compatible with adjacent and nearby developments and uses because it is to be a low-intensity, small-scale use.

Transportation and Site Access

The subject land:

- contains an underground parkade with 80 existing parking spaces, which is more than the 62 required for the entire development as per By-law 200/2006; and
- is adjacent to River Avenue and near Osborne Street, both of which are regional streets that
  - have sidewalks on both sides, and
  - are also Winnipeg Transit bus routes adjacent to or in the vicinity of the subject land.

Site Design Issues

Given that the proposal is to redevelop an existing commercial space, it appears that there are no site design issues. If the proposal is to be altered by including an outdoor dining/drinking area, it is noteworthy that this is a conditional use in the "RMU" District.

Recommendation

The Planning and Land Use Division recommends approval because:

- the proposed rezoning conforms to Plan Winnipeg and the Osborne Village Neighbourhood Plan;
- the proposed use is compatible with existing developments in the vicinity of the subject land;
- The proposed rezoning is reflective of the current land-uses that have a mixture of multiple family residential and commercial.
- The compatibility of any proposed development of the subject land with existing developments can be further ensured by restricting drinking establishments, signage and lighting.
- The previous Zoning Agreement on the property be discharged and a new zoning agreement added.

Recommended Conditions of Approval

1. That The Winnipeg Zoning By-law 200/2006 be amended by rezoning the subject land as shown on Schedule "A" for File DAZ 223/08 dated July 13, 2008 to an "RMU" Residential Mixed Use District, subject to the following:

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

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2. That Caveat # 88-20726 be withdrawn as it affects Lots 9 & 10, Block 2, Plan 314.

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

8. That the City Solicitor/Manager of Legal Services be requested to do all things necessary for implementation in accordance with the terms of The City of Winnipeg Charter.

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

Report Prepared by: J. Glen Doney
PPD File DAZ 223/08

Schedule "A"

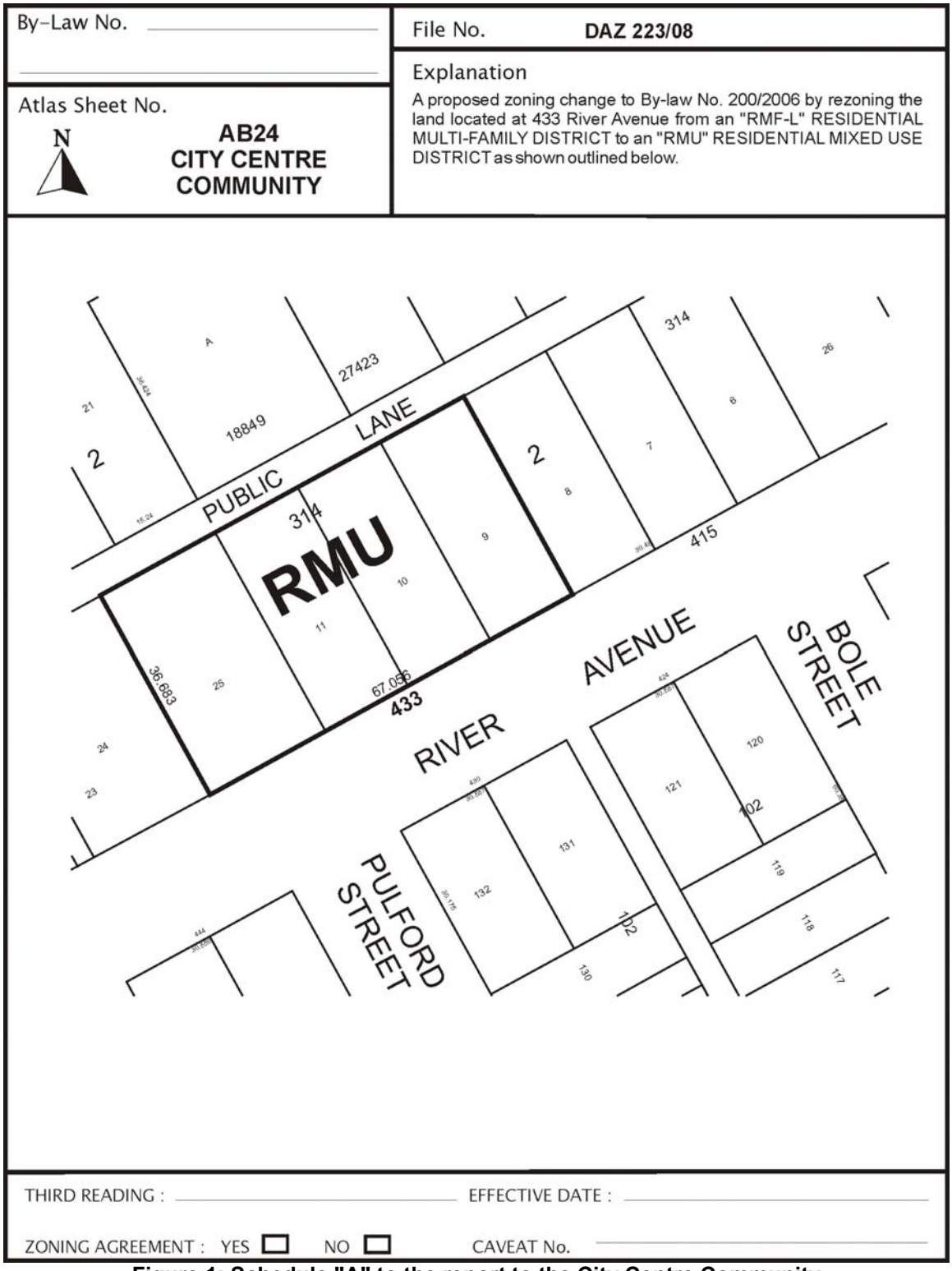

Figure 1: Schedule "A" to the report to the City Centre Community Committee for File DAZ 223/2008, dated July 13, 2008



Figure 2: Existing Development, 2005 aerial photography

Legend	
MFD, 2 to 8	multiple-family dwelling, 2nd to 8th storeys
R, G	restaurant, ground floor
P, G	personal service, ground floor
DC, G	dental clinic, ground floor
RS, G	retail sales, ground floor
VPD, G	vacant - **proposed drinking establishment**, ground floor
POW, 2 ½	place of worship, 2 ½ storeys
MFD, 3	multiple-family dwelling, 3 storeys
MFD & O, 4	multiple-family dwelling and office, 4 storeys
2FD, 2 ½	two-family dwelling, 2 ½ storeys
SRO	single-room occupancy
T, 1 ½	theatre, 1 ½ storeys

July 13, 2008



Figure 3: Existing Zoning

July 13, 2008