Minute No. 579
Report - Executive Policy Committee - September 3, 2008

Item No. 2 Zoning Agreement Amendment - 137 Scott Street (Fort Rouge-East Fort Garry Ward) File ZAA 9/2008

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That Zoning Agreement Caveat 261747 under File DAZ 212/79 dated April 4, 1979, be withdrawn and replaced with a new Zoning Agreement as follows:

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

        i. That the following uses shall be prohibited from the land:
            a. single-room occupancy;
            b. carrier depot; and
            c. contractor's establishment.

        ii. That any use of the subject land must not be open to the public from 10:00 p.m. to 7:00 a.m.

        iii. That, for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the locations and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, mechanical equipment screening and sound attenuation devices, landscaping and signage 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.

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

Report - Executive Policy Committee - September 3, 2008

COUNCIL DECISION (continued)

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.

vi. That all rooftop equipment generating noise that can be heard from outside the site boundaries are buffered or attenuated to direct noise upward.

vii. That, prior to the issuance of any occupancy permits, all garbage containers be fully enclosed by a brick/concrete and/or wood barrier fence that is at least six (6) inches above the top of the garbage container, and thereafter maintained to the satisfaction of the Director of the Planning, Property and Development Department.

2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 212/79 dated April 4, 1979 as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

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: **Zoning Agreement Amendment - 137 Scott Street**
File ZAA 9/2008 [c/r DCU 117911/2008D]

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 Zoning Agreement Caveat 261747 under File DAZ 212/79 dated April 4, 1979, be withdrawn and replaced with a new Zoning Agreement as follows:

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

        i. That the following uses shall be prohibited from the land:
            a. single-room occupancy;
            b. carrier depot; and
            c. contractor's establishment.

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        iii. That, for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the locations and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, mechanical equipment screening and sound attenuation devices, landscaping and signage 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.

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

v. That 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.

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2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 212/79 dated April 4, 1979 as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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 proposal is in scale with the Osborne Village Area Plan.

2. The proposal is a redevelopment of a historical building.

PUBLIC HEARING SUMMARY

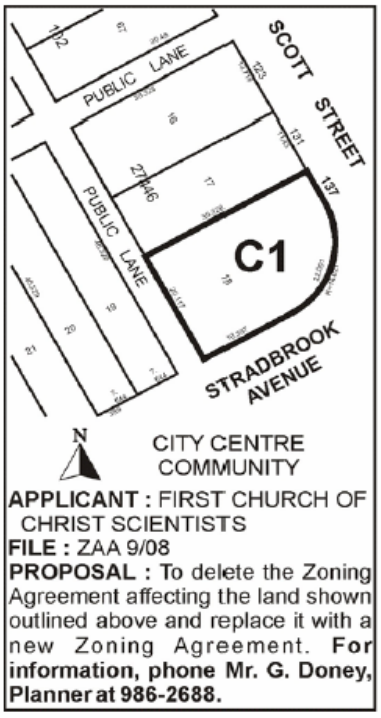
File: ZAA 9/2008 [c/r DCU 117911/2008D]

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: First Church of Christ Scientists
(Harvey Laycock)

Subject:



Premises Affected: 137 Scott Street

Exhibits Filed:

1. Application dated May 7, 2008
2. Notification of Public Hearing dated May 26, 2008
3. Manitoba Status of Title 2101449
4. Letter of authorization dated March 26, 2008 from Nevada Loretta Cianflone to First Church of Christ Scientists
5. Surveyor's Building Location Certificate and sketch dated April 28, 2008
6. Zoning Agreement DAZ 212/79
7. Plans (4 pages)
8. Report from the Planning and Land Use Division dated July 8, 2008
9. Inspection Report
10. Communication dated July 8, 2008, from Donald Plett, Spiritual Care Provider, Misericordia Health Centre, in support of the application
11. Communication dated July 11, 2008, from Rev. Barb M. Janes, Crescent Fort Rouge United Church, in support of the application
12. Communication dated July 11, 2008, from Rev. Dr. John Wortley, The Parish Church of St. Luke, in support of the application
13. Communication dated July 10, 2008, from Rev. Dr. Loraine MacKenzie Shepherd, Minister, Augustine United Church, in support of the application
14. Petition in support of the application purporting to contain the signatures of 2 area residents, submitted by Joyce Milgaard
15. Audio Recording of representations

REPRESENTATIONS:

In Support:

Anita M. Abbott
Samuel Argenziano
Nevada and John Cianflone
Robert and Catherine Elphick
Claire Hoffer
Dianne Jackman
Rev. Barb M. Janes, Crescent Fort Rouge United Church
Harvey Laycock, First Church of Christ Scientists
D. Grant and Diana McIntosh
Joyce Milgaard
Dawn Miller

Brenden Morgan
Donald Plett, Spiritual Care Provider, Misericordia Health Centre
Rev. Dr. Loraine MacKenzie Shepherd, Augustine United Church
Martha Vargas
Rev. Dr. John Wortley, The Parish Church of St. Luke

In Opposition

Nil

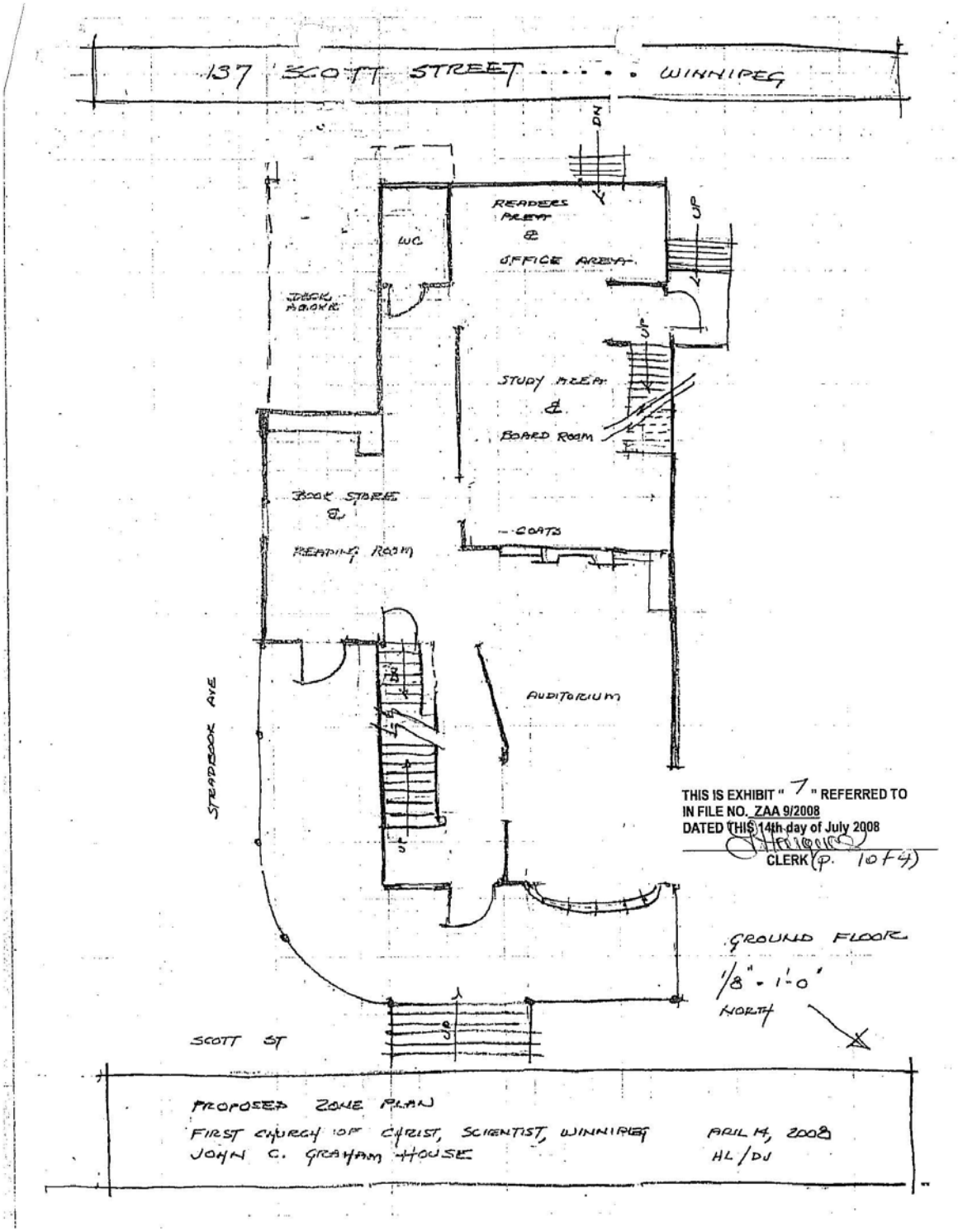
For Information:

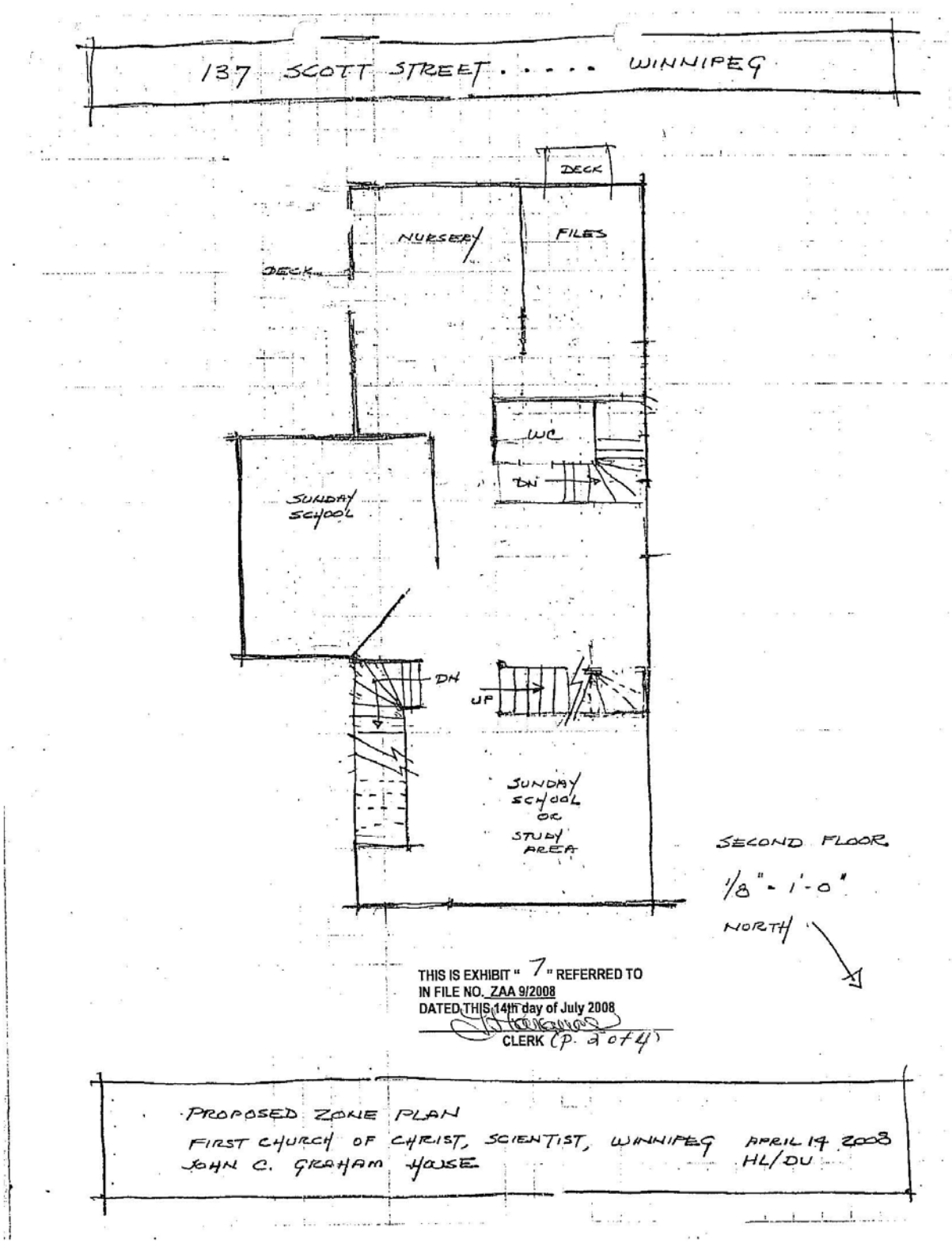
Victoria Shaw

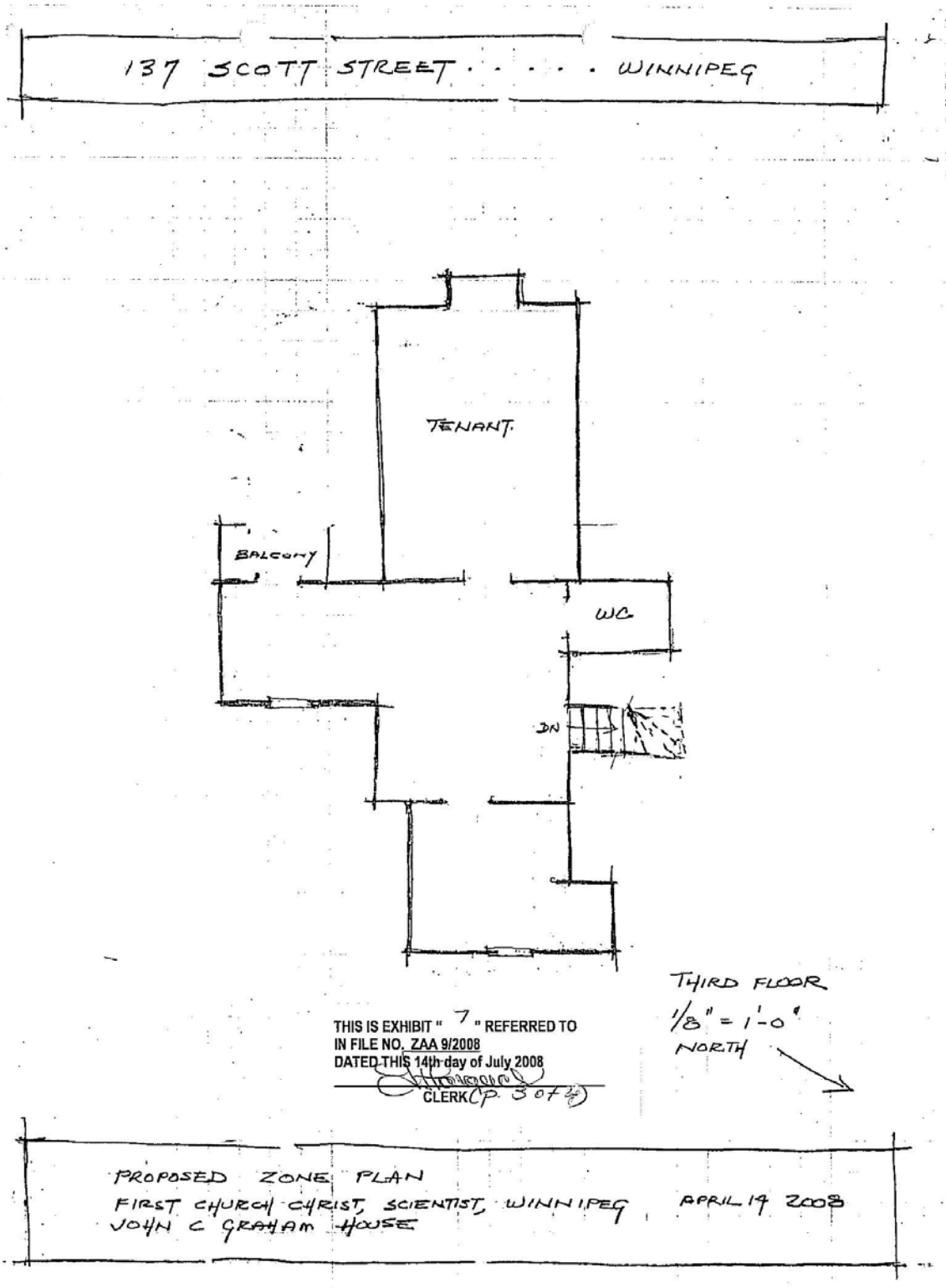
For the City:

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

Exhibit "7" referred to in File ZAA 9/2008 [c/r DCU 117911/2008D]




137 SCOTT STREET . . . . . WINNIPEG
DECK
NURSERY
FILES
DECK
WC
DN
SUNDAY SCHOOL
DN
UP
SUNDAY SCHOOL OR STUDY AREA
SECOND FLOOR
1/8" - 1'-0"
NORTH
THIS IS EXHIBIT " 7 " REFERRED TO
IN FILE NO. ZAA 9/2008
DATED THIS 14th day of July 2008
CLERK (p. 2 of 4)
PROPOSED ZONE PLAN
FIRST CHURCH OF CHRIST, SCIENTIST, WINNIPEG APRIL 14 2008
JOHN C. GRAHAM HOUSE HL/DU


137 SCOTT STREET . . . . . WINNIPEG
TENANT
BALCONY
WC
DN
THIRD FLOOR
1/8" = 1'-0"
NORTH
THIS IS EXHIBIT " 7 " REFERRED TO
IN FILE NO. ZAA 9/2008
DATED THIS 14th day of July 2008
CLERK (P. 3074)
PROPOSED ZONE PLAN
FIRST CHURCH CHRIST, SCIENTIST, WINNIPEG
JOHN C GRAHAM HOUSE
APRIL 19 2008

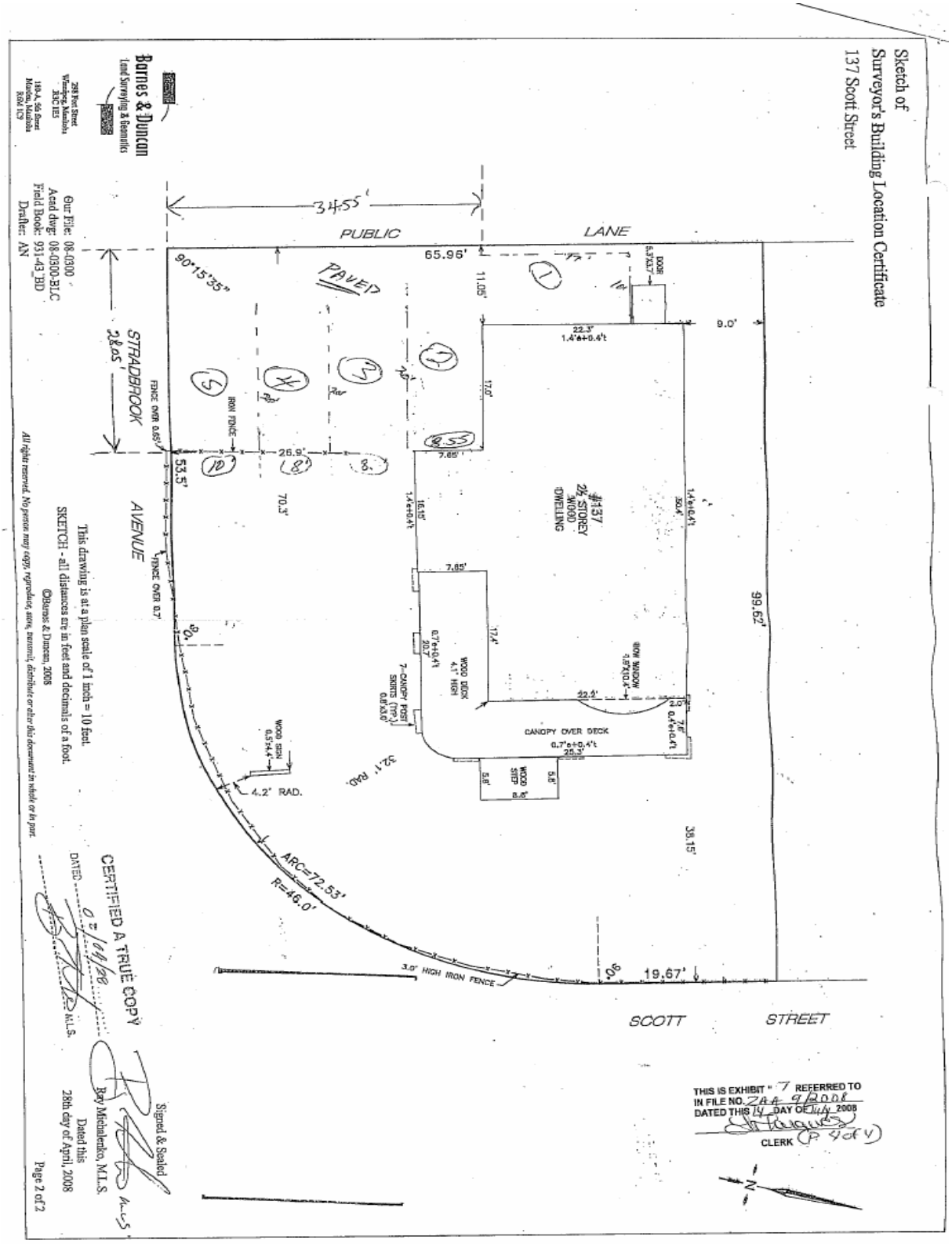

Sketch of
Surveyor's Building Location Certificate
137 Scott Street
Barnes & Duncan
Land Surveying & Geomatics
Our File: 08-0300
Acad dwg: 08-0300-BLC
Field Book: 931-43_BD
Drafter: AN
PUBLIC LANE
34.55'
65.96'
90°15'35"
PAVED
STRADBROOK AVENUE
28.05'
FENCE OVER 0.65'
IRON FENCE
25.9'
53.5'
70.3'
FENCE OVER 0.7'
#137
2½ STOREY
WOOD
DWELLING
99.62'
WOOD DECK
4.1' HIGH
CANOPY OVER DECK
WOOD STEP
IRON WINDOW
WOOD SIGN
4.2' RAD.
32.1' RAD.
ARC=72.53'
R=46.0'
3.0' HIGH IRON FENCE
19.67'
38.15'
SCOTT STREET
This drawing is at a plan scale of 1 inch = 10 feet.
SKETCH - all distances are in feet and decimals of a foot.
©Barnes & Duncan, 2008
All rights reserved. No person may copy, reproduce, store, transmit, distribute or alter this document in whole or in part.
CERTIFIED A TRUE COPY
DATED
Ray Mitchalenko, M.L.S.
Signed & Sealed
Dated this
28th day of April, 2008
Page 2 of 2
THIS IS EXHIBIT "7" REFERRED TO
IN FILE NO. ZAA 9/2008
DATED THIS 14 DAY OF July 2008
CLERK
(P 4 of 4)
N

Exhibit "8" referred to in File ZAA 9/2008 [c/r DCU 117911/2008D]

Winnipeg

Planning, Property and Development Department Report

To the City Centre Community Committee

Date: July 8, 2008

File: ZAA 9/08

Related Files: DCU 08-117911/D

Subject: Withdraw Zoning Agreement that restricts the use of the subject land to professional offices on the ground floor and dwelling units.

Location: 137 Scott Street, at the northwest corner of Scott Street and Stradbrook Avenue, River Osborne Neighbourhood, Fort Rouge – East Fort Garry Ward



Legal Description: Lot 18, Plan 27446

Applicant: Harvey Laycock representing First Church of Christ Scientists

Owner: Navada Cianflone

Recommendation: Approve with conditions

Report Summary:

- The proposal is to redevelop the interior of the building into a place of worship, make safety upgrades to the porch and build a wheelchair accessible ramp.
- The subject land encompasses a 2 ½ storey building, with a total floor area of approximately 3,200 square feet
- The building is on the City's Historical Buildings Conservation List and, therefore, any exterior alteration must be done only with the approval of the Heritage Buildings Committee;
- Approximately 20 to 25 people are to be participating in Sunday morning and Wednesday evening worship.
- Receptions following services, funerals, socials, weddings and the serving of alcohol are not to take place on the subject land.

Site Description

The subject land:

- is at 137 Scott Street, at the northwest corner of Scott Street and Stradbrook Avenue, in the River-Osborne Neighbourhood of the Fort Rouge – East Fort Garry Ward;
- as per the Osborne Village Neighbourhood Plan, is in a Village Mixed Use Transition (V-MUT) area, is immediately south of and east of a large Village Medium Density Residential (V-MDR) area and is near a Parks and Open Space area;
- as shown in Figure 1, is in a "C1" Commercial Neighbourhood District;
- is approximately 5,924 square feet; and
- encompasses a 2 ½ storey building, with a total floor area of approximately 3,200 square feet;
- the 2 ½ storey building is on the City of Winnipeg's Historical Buildings Conservation List and, therefore, any exterior alteration must be done only with the approval of the Heritage Buildings Committee;
- as shown in Figure 2, is principally used as offices and personal services (in this case, a hair salon) and
- contains five accessory parking spaces, four of which are entirely paved and one of which is partly paved and partly surfaced with stones.

Figure 1 shows that the subject land is:

- adjacent to an "RMF-M" Residential Multiple-Family District (medium density);
- across a public lane and public streets from other "RMF-M" Districts; and
- is in the vicinity of an "RMF-L" Residential Multiple-Family District (higher density), "R2" Residential Two-Family Districts, "C1" Commercial Neighbourhood Districts and a "C2" Commercial Community District.

Figures 2 shows that the subject land is:

- adjacent to a single-family dwelling use in a 1 ½ storey building;
- across a public lane or a public street from a vacant parcel of land, a row-house development consisting of five dwelling units in a two storey building, a park and an office in a 1 ½ storey building; and
- in the vicinity of two 2 ½ storey multiple-family dwellings, one 3 ½ storey multiple-family dwelling, a six storey multiple-family dwelling with parking on a portion of the ground floor, a nearly built six storey multiple-family dwelling, a 2 ½ storey building with multiple-family dwelling and office as the principal uses, a two storey single-family dwelling and a one storey single family dwelling.

Background

On April 4, 1979, the City of Winnipeg and MJA Enterprises Limited entered into a zoning agreement as per DAZ 212/79. The zoning agreement restricts the use of the subject land to professional offices on the ground floor and dwelling units and was a condition of rezoning the land to "C1" Limited Commercial District.

On November 24, 1981, the City Centre – Fort Rouge Community Committee ordered the variance of Zoning By-law 16502 to permit:

- the maintenance of an accessory parking area having a five foot south side yard instead of the required 10 feet;
- no loading spaces in stead of the required two; and
- the maintenance of a double-sided non-illuminated free standing identification sign having a south side yard of four feet instead of the required 10;

on the condition that a hedge of at least three feet in height be established and maintained on the south and east sides of the parking area.

Description of the Proposed Development

The proposal is to:

- redevelop the interior of the building into a place of worship, as shown on Sheets One to Four of File DCU 08-117911/D;
- make safety upgrades to the porch; and
- build a wheelchair accessible ramp.

The proposed place of worship use would:

- include Sunday morning and Wednesday evening worship, with approximately 20 to 25 people participating;
- include church board meetings and secretarial work;
- not include receptions following services, funerals, socials, weddings or the serving of alcohol; and

- include a bookstore with a reading room, a sign located in the south (Stradbrook Avenue) yard.

Also, one or two public lectures per year may take place in the subject land.

Analysis

Plan Winnipeg Compliance

The subject land is in a Neighbourhood policy area as per Policy Plate "A", Land Use of *Plan Winnipeg, 2020 Vision.* Therefore, it complies to Plan Winnipeg.

Secondary Plan – Osborne Village Neighbourhood Plan

As previously stated, the subject land is in a V-MUT area, as per the Osborne Village Neighbourhood Plan (OVNP).

Given that no additions to the building are proposed, that only approximately 20 to 25 people are expected to participate in worship two days of the week and that all of the principal uses are to take place inside the building, the proposal conforms to the OVNP, specifically:

- Policy 6.1.1.B, which states that commercial and employment [and, by inference, institutional] uses in V-MUT areas should be compatible with the existing context in terms of lot size, building scale and character; and
- Polcy 6.1.1.D, which states that non-residential uses are not to emit any noise…. outside the building.

The OVNP states that the conversion of existing single-family residential buildings into rooming houses is an issue and that such conversion should be discouraged.

Zoning By-law 200/2006

Application has been made under File DCU 08-117911/D to receive conditional use approval to establish a place of worship use on the subject land.

Compatibility with Existing Development in the Vicinity of the Subject Land

The proposal is compatible with existing development because:

- the intensity of the proposed place of worship use would be relatively low because only approximately 20 to 25 people would be participating in worship services and because no additions are proposed to the existing building that, as previously stated, has a total floor area of only approximately 3,200 square feet;

- receptions following services, funerals, socials, weddings or the serving of alcohol are not proposed;
- as shown in Figure 2, the building's 2 ½ storeys and existing yard depths are generally consistent with adjacent and nearby developments; and
- the number of accessory surface parking spaces is in accordance with Winnipeg Zoning By-law 1200/2006.

Transportation and Site Access

The subject land is adjacent to Stradbrook Avenue (one-way eastbound) and close to River Avenue (one-way westbound), both of which are regional streets, have public sidewalks and are portions of a Winnipeg Transit bus route. Scott Street has public sidewalks and connects the subject land to River Avenue.

Heritage Status

As previously stated, the subject land encompasses a 2 ½ storey building, with a total floor area of approximately 3,200 square feet, that is a listed Heritage Building of which any exterior alteration must be done only with the approval of the Heritage Buildings Committee.

Recommendation

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

1. The proposal conforms to the Osborne Village Neighbourhood Plan.
2. The intensity of the proposed place of worship use would be relatively low because only approximately 20 to 25 people would be participating in worship services and because no additions are proposed to the existing building that, as previously stated, has a total floor area of only approximately 3,200 square feet.
3. Receptions following services, funerals, socials, weddings or the serving of alcohol are not proposed.
4. The building's 2 ½ storeys and existing yard depths are generally consistent with adjacent and nearby developments.
5. The number of accessory surface parking spaces is in accordance with Winnipeg Zoning By-law 1200/2006.
6. A zoning agreement can be entered into to
   - restrict the time of day that any use of the subject land can be open to the public,
   - prohibit uses that are permitted in the "C1" District but that are not appropriate for the subject land and
   - make plan approval by the Director of the Planning, Property and Development Department a requirement.

Recommended Conditions of Approval

1. That Zoning Agreement Caveat 261747 under File DAZ 212/79 dated April 4, 1979 be withdrawn and replaced with a new Zoning Agreement as follows:

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

      i. That the following uses shall be prohibited from the land:
         a. single-room occupancy;
         b. carrier depot; and
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      iii. That, for the development of any building and/or accessory parking area and/or signage, plans shall be submitted showing the locations and design of the proposed buildings, the location and design of accessory parking areas, private approaches, garbage enclosures, fencing, mechanical equipment screening and sound attenuation devices, landscaping and signage 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.

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      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.

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2. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary Amending Agreement to Zoning Agreement DAZ 212/79 dated April 4, 1979 as approved in aforesaid Recommendation 1.

3. That the Proper Officers of the City are hereby authorized to execute said Amending Agreement.

4. 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 ZAA 8/07



Figure 1: Existing Zoning

July 9, 2008

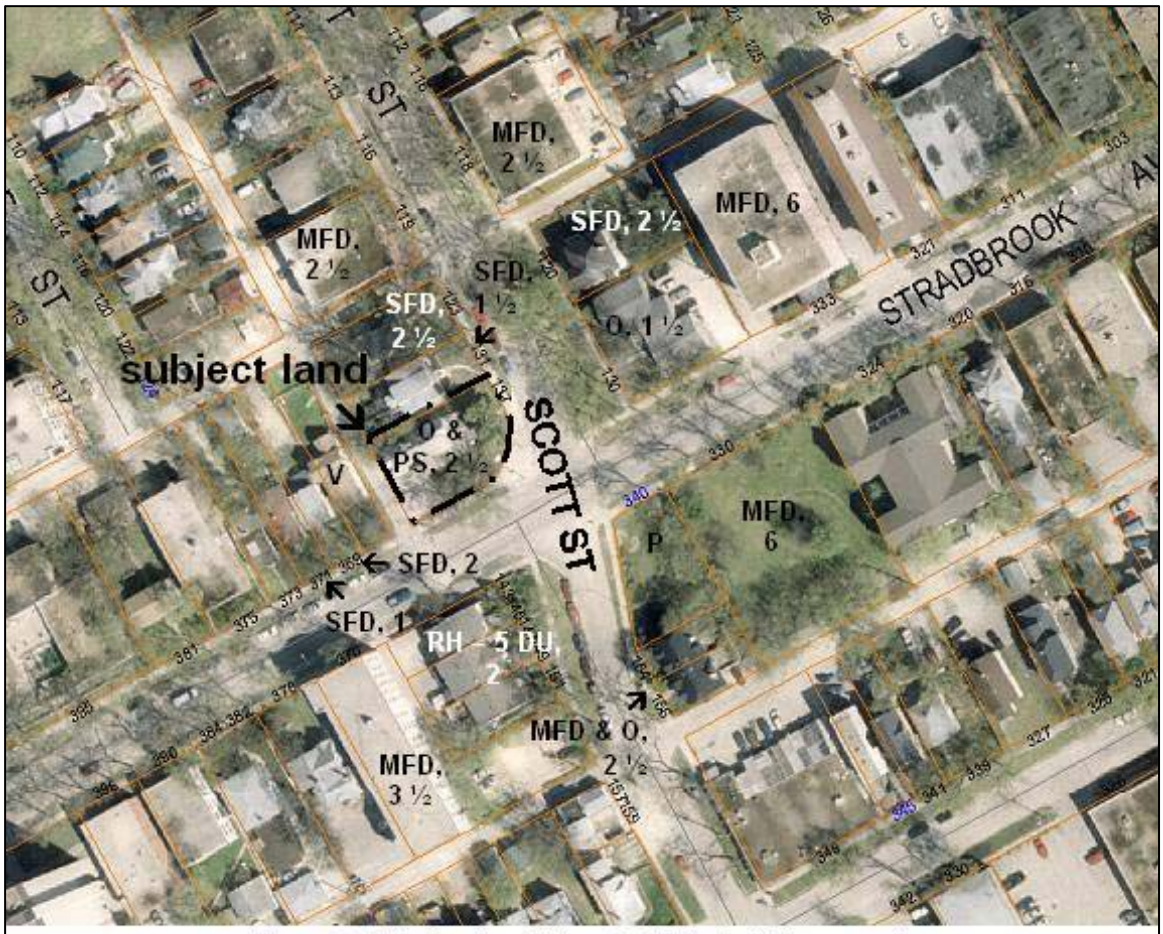

Figure 2: Existing Land Use, 2005 Aerial Photography

Legend	
SFD 2 ½	single-family dwelling, 2 ½ storeys
MFD, 6	multiple-family dwelling, 6 storeys
RH – 5 DU, 2	row-housing – 5 dwelling units, 2 storeys
O	office
P	personal service (in this case, hair salon)
V	vacant land

July 8, 2008