Minute No. 82
Report – Executive Policy Committee – November 30, 2005

Item No. 6 **Closing of the Public lane west of Litchfield Boulevard, south of Dearsley Place**
File DAC 19/99

COUNCIL DECISION:

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

1. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the subject lane closing in accordance with Schedule "A", Misc. Plan No. 10705/3.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing

Report – Executive Policy Committee – November 30, 2005

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,
That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

(See Minute No. 76 for opposition recorded by Councillor Clement)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 30, 2005, the Executive Policy Committee concurred in the administrative recommendation contained in the report dated November 17, 2005, and submitted the matter to Council.

On November 20, 2002, the Executive Policy Committee further laid over consideration of this matter over for ninety (90) days and referred the matter to the Legal Services Division and the Planning, Property and Development Department for report back to the Executive Policy Committee, following consultation with the Ward Councillor, outlining legal options.

On May 15, 2002, the Executive Policy Committee further laid over consideration of the matter for an additional one hundred and eighty (180) days.

On November 14, 2001, the Executive Policy Committee laid over consideration of this matter for 180 days and requested that the Administration obtain a development plan from the owner of the property.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 28, 1999, the Assiniboia Community Committee recommended that the proposed lane closing be approved and that the recommendations outlined in the report of the Real Property Officer dated September 15, 1999, be concurred in.

Re: DAC 19/99 – Proposed Closing of the Public Lane West of Litchfield Boulevard, South of Dearsley Place

For submission to: **Executive Policy Committee**

Original report signed by: **Director of Planning, Property and Development**

Report date: **November 17, 2005**

Recommendation(s):

I. That the City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the subject lane closing in accordance with the attached Schedule "A", Misc. Plan No. 10705/3.

II. That the Proper Officers of the City be authorized to do all things necessary to effect the intent of the foregoing

REPORT SUMMARY

KEY ISSUES:

- The City of Winnipeg is obliged by the terms of a land exchange agreement to convey the subject lane to 74842 Manitoba Inc. The lane may not be conveyed until it is closed.
- The area residents and the area Councillor are concerned about the ultimate disposition of the lane.

IMPLICATIONS

General implications

	None
	For the organization overall and/or for other departments
X	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment:
- There are concerns that the ultimate disposition of the closed lane will result in a use of the adjoining lands for purposes unsuitable to the community.

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

-

Human resources implications:

X	**No**
	Yes

Comment(s):

-

Financial implications:

X	**Within approved current and/or capital budget**
	Current and/or capital budget adjustment required

Comment(s):

- The lane will be transferred for the nominal sum of $1.00. All costs associated with the closing are the responsibility of 74842 Manitoba Inc

REPORT

REASON FOR THE REPORT:

This report is being submitted in response to an August 15, 2005 request from the Solicitors acting on behalf of 74842 Manitoba Inc. to legally close the subject lane pursuant to a 1984 Council approved exchange with Duraps Corporation.

The closing of the public lane requires a by-law pursuant to Section 139 of the City of Winnipeg Charter.

HISTORY:

In February of 1984, Council approved an exchange of lands with Duraps Corporation. Under the terms of this transaction, the City of Winnipeg acquired the Tuxedo Golf Course property in exchange for certain City lands in an area generally bounded by Park and Shaftsbury Boulevards and Wilkes and Bard Avenues. The report recommending the exchange that was approved by Council stated that the streets and lanes in this area were to be closed as part of the City lands to be exchanged.

The City of Winnipeg and Duraps Corporation subsequently entered into an agreement based on Council's approval of the transaction.

All of the streets and lanes addressed in that agreement have now been closed and transferred to Duraps, with the exception of the lane identified as "Proposed Closing" on Schedule "A".

In 1999, Mr. Sam Searle of 74842 Manitoba Inc. (the successor to Duraps Corporation) claimed the right to ownership of the subject lane and applied to have the lane closed. Mr. Searle had advised the City that he intended to sell the property to the owner of the adjoining land (identified on Schedule "A" as "President of the Lethbridge Stake").

The Legal Services Division confirmed Mr. Searle's claim on the land and the matter was forwarded to the Assiniboia Community Committee. The proposed closing was approved by the Community Committee at its September 28, 1999 public meeting.

A By-law to close the lane was prepared and submitted to the Executive Policy Committee for its consideration prior to the November 1999 Council meeting. The matter was laid over by the Executive Policy Committee. In October of 2000, the Executive Policy Committee referred the matter back to the Administration for further review.

The Planning, Property and Development Department subsequently submitted a report on October 26, 2001 related to the proposed closing of the public lane west of Litchfield Boulevard, south of Dearsley Place (DAC 19/99). On November 14, 2001 EPC considered this report and laid over the proposed lane closing for 180 days.

On May 15, 2002 the Executive Policy Committee reconsidered the subject lane closing and laid the matter over for a further 180 days. The matter was subsequently considered by EPC on November 20, 2002 and laid over for an additional 90 days.

On August 15, 2005 the Solicitors (Fillmore Riley), acting on behalf of 74842 Manitoba Inc., forwarded a letter to the Manager of the CAO Secretariat advising:

- That their client had sold the property to the "President of the Lethbridge Stake" and that closure of the public lane was linked to the sale,
- That the City had previously agreed to close the lane,
- That any proposed development of the lands is subject to the City's approval process,
- That this matter be submitted for the consideration of EPC at its meeting of September 7, 2005.

DISCUSSION:

This area is zoned "A-5." which requires that a church use be subject to a conditional use application. Schedule "B"(attached) lists the permitted uses under this zoning designation.

The Department is of the opinion that virtually any use of the land that might be of concern to the area residents will require either a rezoning or conditional use approval. This process will allow for sufficient control over the future development of the property.

The Board of Adjustment considers conditional use applications at a public hearing. Residents may voice their objections to a conditional use application when the Board of Adjustment considers it, and they may appeal the decision of the Board of Adjustment to the Appeal Committee.

Concern has been expressed that development of this site could, nevertheless, produce a land use that would not be compatible with the adjacent residential neighbourhood. As a result, EPC requested a copy of the development proposal for the land.

In an attempt to address the proposed lane closing, the Planning, Property and Development Department contacted the Real Estate Manager of Lethbridge Stake on October 13, 2005 with respect to the possibility of obtaining any conceptual renderings or site plans that have been prepared for the site. Renderings and a conceptual site plan were subsequently forwarded on October 24th, 2005.

The conceptual plan proposes to develop a 4.96 acre portion of the 7 acre site with a Church building and accessory uses. The planned use is surrounded on three sides by single-family dwellings. Subdivision of the subject land for residential use would generate 20 single-family lots that would represent a logical extension of the adjacent area.

On October 24, 2005, the Department contacted the Lethbridge Stake and offered to explore an exchange of lands with the City to accommodate their project. In addition, the Department suggested that the City would consider obtaining approval for the use, prior to completing any exchange.

On October 27, 2005, the Real Estate Manager of Lethbridge Stake advised "*We would only agree to an exchange if the new site would be equal to or better than the one we have, relative to size, access, surrounding environment etc."* The Planning, Property and Development Department is in the process of reviewing City owned sites for a potential land exchange.

The Planning, Property and Department recommend that the subject lane be legally closed and transferred, for the following reasons:

- The City of Winnipeg is obliged by the terms of a land exchange agreement to convey the subject lane to 74842 Manitoba Inc. and the lane may not be conveyed until it is closed,
- Any use of the land that may be incompatible with the adjacent area will likely require either a rezoning or conditional use approval, and
- The approval process will provide sufficient control over the future development of the property.

Financial Impact Statement **Date:** November 16, 2005

COMMENTS:

All costs associated with the closing of this lane are the responsibility of the applicant, 74842 Manitoba Inc. The land is to be conveyed for the nominal sum of $1.00 in accordance with the terms of the 1984 land exchange agreement referred to in the report. There is, therefore, no financial impact.

"Original signed by"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Legal Services

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Development and Inspections/Real Estate
Prepared by: Glenn F. Halldorson and Ray Klassen
PPD File #: 5760, 7908(II)

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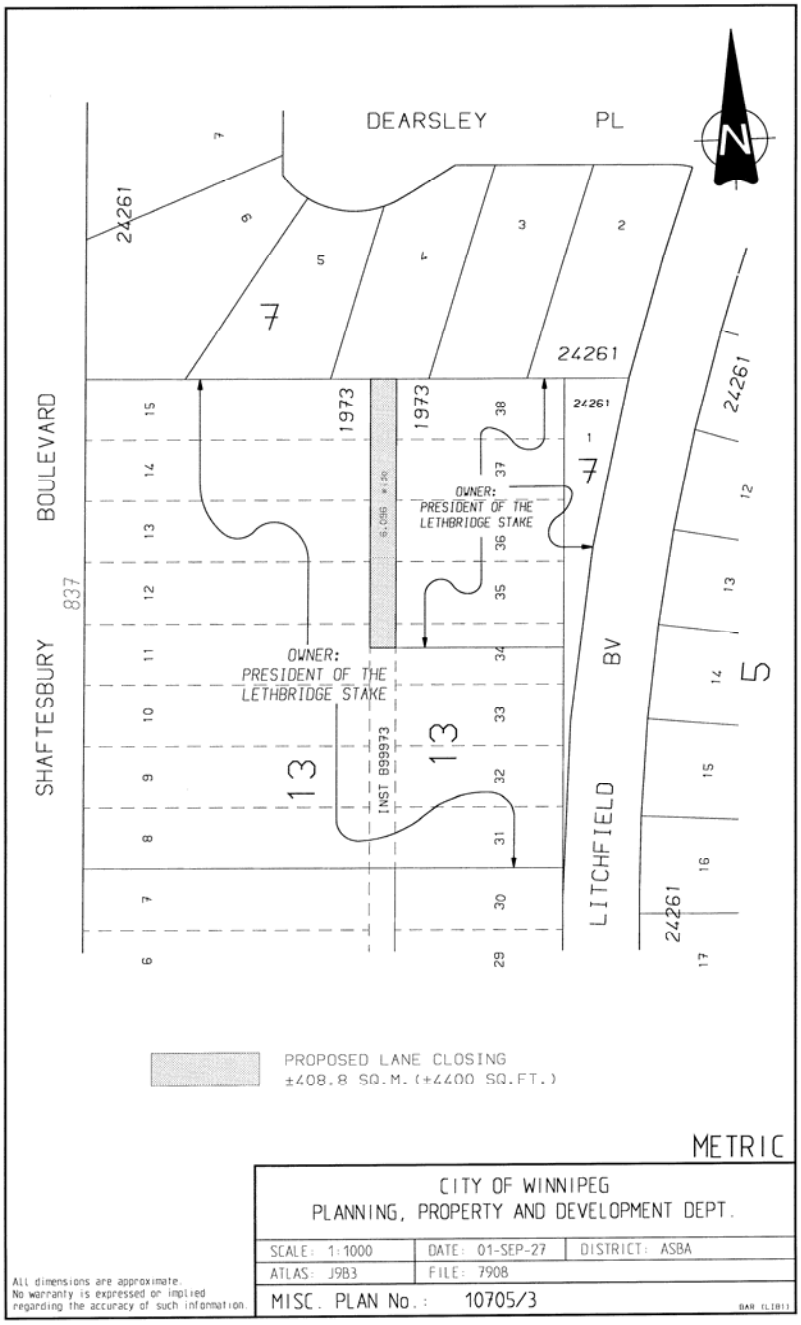

SCHEDULE "A"
TO THE REPORT TO THE EXECUTIVE POLICY COMMITTEE
FOR FILE NO. DAC 19/99

PERMITTED USES OF PROPERTY ZONED "A-5"

BOARDERS or ROOMERS, accessory to a dwelling unit, limited to two (2) persons, living in the dwelling unit.

CROPPING, including sod or tree farming.

DAY CARE, PRIVATE HOME, in a dwelling unit with ground level entry.

DWELLING, single family.

FAMILY DAY CARE HOME, in a single family dwelling.

FUND RAISING EVENTS, including flea markets, commercial or trade shows, and the like; a maximum of four (4) events per year for a maximum duration of three (3) days each; in a community centre, church, school or similar public facility.

FUND RAISING EVENTS, including flea markets, commercial or trade shows, and the like; more than four (4) events per year; in a community centre, church, school or similar public facility.

PARK.

POST OFFICE, CARRIER DEPOT.

PUBLIC UTILITY OR SERVICE, excluding garbage incineration, reduction, transfer or landfill, sewage treatment or a public works yard

USES ACCESSORY TO ANY OF THE ABOVE.

SCHEDULE "B"
TO THE REPORT TO THE EXECUTIVE POLICY COMMITTEE
FOR FILE NO. DAC 19/99