REPORTS

Minute No. 6 **Proposed Closing of the Public Lane West of Litchfield Boulevard, South of Dearsley Place**
File DAC 19/99

EXECUTIVE POLICY COMMITTEE DECISION:

The Executive Policy Committee laid this matter over for a further 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.

DECISION MAKING HISTORY:

Moved by Councillor Clement,

1. That consideration of the matter be laid over for a further ninety (90) days.

2. That the matter be referred 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.

Carried

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: October 26, 2001

In camera item: No.

Recommendation(s): That a by-law be enacted authorizing the subject lane closing.

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. The attached report indicates the opinion of the administration that the City of Winnipeg will retain control over the use of the adjoining lands through the rezoning or conditional use application process.

Policy implications

X	No (*There are no policy implications if the report is asking for a one-time decision.)*
	Yes *(There are policy implications if the recommendation(s) is/are asking for a decision that will be used to guide decisions over time.)*

Comment:

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Financial implications

	Within approved current and/or capital budget
	Current and/or capital budget adjustment required
X	No financial implications

Comment:

- 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

RECOMMENDATION(S):

I. That the City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the 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.

REASON FOR THE REPORT:

The closing of the lane requires a by-law pursuant to Section 495 of the City of Winnipeg Act.

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.

An agreement based on Council's approval of the transaction was subsequently entered into by the City of Winnipeg and Duraps Corporation.

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.

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.

DISCUSSION:

1. Entitlement to land

Mr. Searle has requested that the lane be transferred to him in accordance with the terms of the 1984 land exchange agreement. As previously stated, the Legal Services Division has advised that Mr. Searle is entitled to this property.

2. Concerns over the future use of the property

Mr. Searle has advised the City that he intends to sell the property to the owner of the adjoining lands, the Mormon Church (identified on Schedule "A" as "President of the Lethbridge Stake").

There has been some concern that the Church will then develop the site in a manner that will not be in keeping with the area residents' concept of an appropriate use of the land.

This area is zoned "A-5." Schedule "B" lists the permitted uses under this zoning designation. All other uses are either not permitted or will require a conditional use application.

Conditional use applications are considered at a public hearing by the Board of Adjustment. Residents may voice their objections when the conditional use application is considered by the Board of Adjustment, and they may appeal the decision of the Board of Adjustment to the Appeal Committee. The City administration feels that:

a) virtually any use of the land that might be of concern to the area residents will require either a rezoning or conditional use approval.

b) this process will allow for sufficient control over the future development of the property.

3. Submission of report in accordance with By-Law 7325/98

This report is submitted in accordance with the provisions of By-law 7325/98, a by-law to allow certain street opening and closing applications to be submitted to the Executive Policy Committee for report to Council without the requirement to be reviewed by a Standing Policy Committee.

The following criteria must be met before the authority given in the by-law may be exercised:

1. The proposed closing must have been addressed at a public meeting and received approval from the Committee before which the public meeting took place.
2. The proposed closing and sale must have been approved by the Director of Public Works.
3. The proposed closing must have been submitted to all affected City Departments and public utilities with no objections having been received.
4. Any conditions regarding engineering aspects (i.e. relocation of facilities) must have been mutually agreed to.
5. The terms and conditions of any easement agreements created by the proposed closing and sale must have been addressed.
6. The proposed closing must have been approved by the affected property owner(s).

7. The terms and conditions of any agreements concerning the proposed closing and sale must have been approved by the Director of the department that requested the closing and either the Standing Committee on Fiscal Issues, the Standing Committee on Property and Development, or the Director of Property and Development Services, as is appropriate.

All of these conditions have been met.

Financial Impact Statement **Date:** 2-Oct-01

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.

Gord Courage, Manager
Support Services Division

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

THIS REPORT SUBMITTED BY:

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

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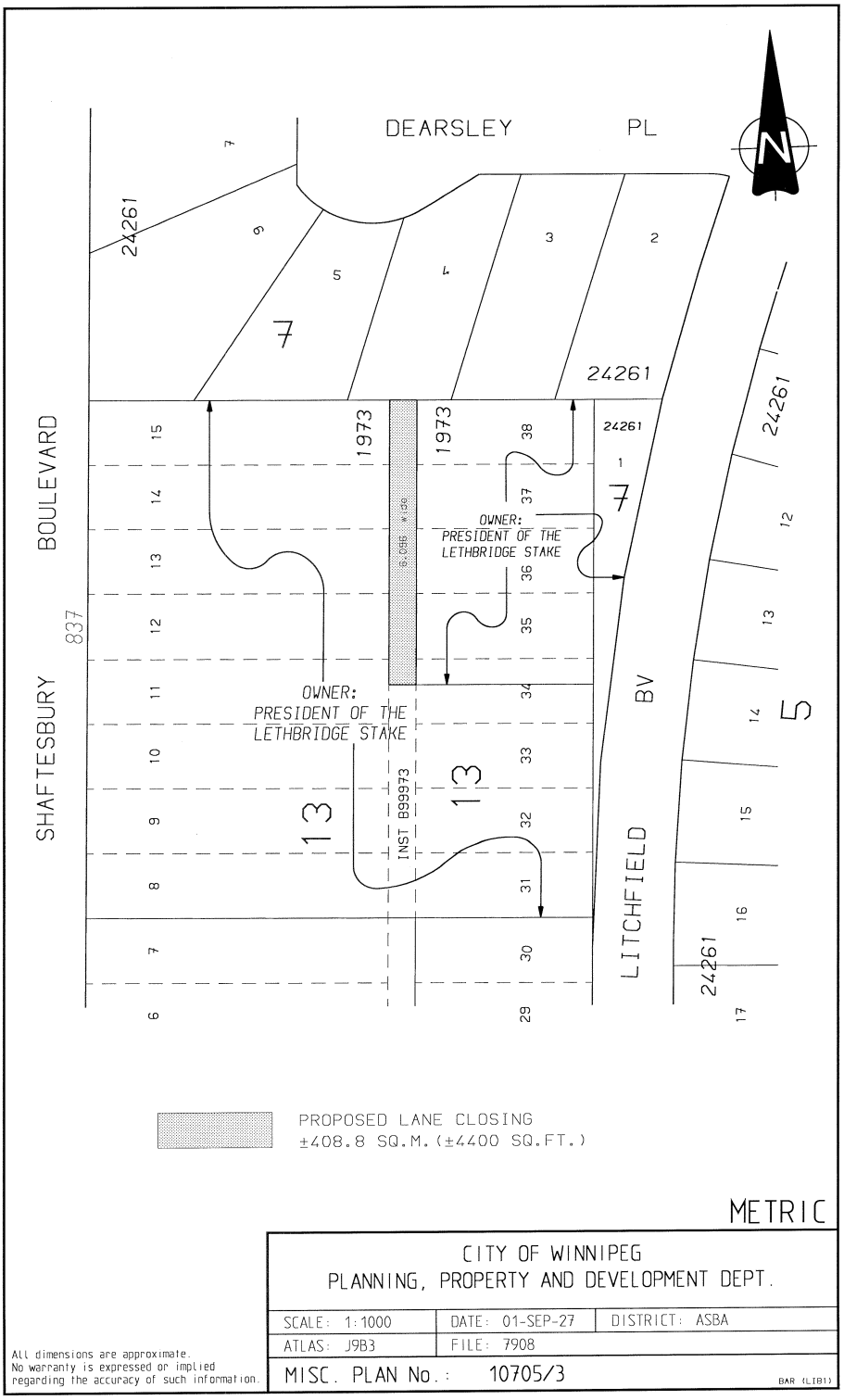

SCHEDULE "A"
TO THE REPORT TO THE EXECUTIVE POLICY COMMITTEE
FOR FILE NO. DAC 19/99
DATED OCTOBER 2, 2001

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.