Minute No. 158
Report – Standing Policy Committee on Property and Development – January 15, 2013

Item No. 1 **Closing – Part of the Public Lane South of Beliveau Road, East of Eric Street**
(St. Vital Ward)
File DAC 5/2012

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the lane closing as shown on Misc. Plan No. 14373 be approved and that the land be declared surplus to the City's needs.

2. That the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the lane closing in accordance with Misc. Plan No. 14373, subject to the approval of the terms and conditions of the conveyance of the land by the Director of the Planning, Property and Development Department.

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

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DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 23, 2013, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 15, 2013, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On December 3, 2013, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service be concurred in and forwarded to the Standing Policy Committee on Property and Development.

PUBLIC HEARING SUMMARY

File:	DAC 5/2012
Before:	Riel Community Committee Councillor Vandal, Chairperson Councillor Mayes Councillor Swandel
Public Hearing:	December 3, 2012 Council Building, 510 Main Street
Applicant:	Beliveau Developments Ltd. (John Wintrup)
Premises Affected:	Part of the Public Lane South of Beliveau Road, East of Eric Street
Exhibits Filed:	1. Report from the Real Property Officer dated November 14, 2012 2. Inspection Report 3. Letter of authorization dated December 1, 2012, from John Wintrup to Bryan Gray, Veritas North Public Affairs Ltd.

REPRESENTATIONS:

In Support:

Frank Bueti
Bryan Gray, Veritas North Public Affairs Ltd.
Gil Goncalves, C.O.F. Haven Inc.
Steven O'Heary

In Opposition:

Nil

For Information:

Nil

For the City:

B. Buyachok, Real Property Officer, Planning, Property and Development Department
R. Kostiuk, Planner, Planning, Property and Development Department
K. Raban, Land Development Administrator, Planning, Property and Development Department
Exhibit "1" referred to in File DAC 5/2012

ADMINISTRATIVE REPORT

Title: **DAC 5/2012: TO SEEK COUNCIL APPROVAL FOR THE PROPOSED CLOSING OF PART OF THE PUBLIC LANE SOUTH OF BELIVEAU ROAD, EAST OF ERIC STREET**

Critical Path: **RIEL COMMUNITY COMMITTEE – STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT - EXECUTIVE POLICY COMMITTEE – COUNCIL**

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Buyachok	B. Thorgrimson	N/A	N/A

RECOMMENDATIONS

1. That the proposed lane closing as shown on Misc. Plan No. 14373 be approved and that the land be declared surplus to the City's needs.

2. That the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the lane closing in accordance with Misc. Plan No. 14373, subject to the approval of the terms and conditions of the conveyance of the land by the Director of the Planning, Property and Development Department.

3. 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

All street and lane closings require the consideration of the Community Committee.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no policy, regulatory, environmental, human resource or general implications associated with the recommendations. All costs associated with the lane closing are the responsibility of the applicant. There are no financial implications for the City of Winnipeg.

HISTORY

The Planning, Property and Development Department has received a request from Mr. John Wintrup, representing Beliveau Developments Ltd., to close and purchase the portion of the Public Lane so identified on the attached copy of Misc. Plan No. 14373. The subject closing is being made in conjunction with a future DAPS application for the subdivision of 180 Beliveau Road. The proposed parceling of the subdivision has been identified on the sketch.

It is the intention of Beliveau Developments to create a new parcel of land (Proposed Parcel B) behind the existing residential building at 180 Beliveau Road (Proposed Parcel A) for the development of a new multiple family building. The proposed new building requires guaranteed fire access on a concrete lane that meets Fire Department standards. The existing public lane does not meet these requirements (as per City of Winnipeg Pre-Application # 12-133209 PA) which states, among other things, that public lanes are not acceptable fire routes).

The proposed planning solution is to transfer the lane, once closed, to private ownership as a separate parcel. This parcel, along with the adjoining Proposed Parcel C, would have a combined width of 9.144m and would function as a private lane providing access to the new development. Mr. Wintrup has also provided the following information to support this application:

- Beliveau Developments Ltd. is prepared to take sole ownership of the lane should the adjoining property owner, C.O.F. Haven Inc. choose not to participate in acquiring a portion of the right of way.
- Beliveau Developments Ltd. will commit to taking over from the City the on-going future maintenance and repair of the lane while allowing continued access and use by the public.
- Beliveau Developments Ltd. will commit that nothing will physically change for C.O.F. Haven Inc., the owner/manager of Anavet Lodge at 166 Beliveau Road. The residents of Anavet Lodge will continue to have guaranteed unimpeded access and use of the private lane that will be secured by means of an Access Agreement registered against title to the property by way of Caveat.
- Beliveau Developments Ltd. is prepared to make the necessary physical upgrades to the private lane for improving fire access should this be a recommendation of the Winnipeg Fire and Paramedic Service.

The major portion of the subject lane was opened by Plan No. 9856 WLTO in June of 1968 as a connection between Beliveau Road and Chesterfield Avenue. The southerly 20 feet of the lane originally

formed part of Chesterfield Avenue which was opened by Plan No. 2191 WLTO in December of 1913. Most of this right of way east of Eric Street was subsequently closed for land development purposes.

If the future DAPS application to be considered in conjunction with the subject lane closing is not approved, the lane will remain as an open public right of way.

CONSULTATION

In preparing this Report there was consultation with:

Internal Consultation:

There was consultation with the affected Civic departments.

External Consultation:

Manitoba Hydro, Centra Gas, MTS Inc. Imperial Oil, Bell Canada, Louis Riel School Division, Rogers, and TeraSpan

Shaw Cablesystems and Fiber did not respond to the request for comment on this application.

SUBMITTED BY

Department: Planning, Property and Development
Division: Development and Inspections
Prepared by: Bohdan Buyachok, Real Property Officer
Date: November 14, 2012
File No.

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APPENDIX "A"

Administrative Approval

The proposal has been considered by all affected City departments and public utilities. There are no administrative objections to the lane closing.

Administrative Comments

Administrative approval of this application is subject to the following conditions:

Transportation Division of the Public Works Department:

1) Confirmation in writing from C.O.F. Haven Inc. that they are agreeable to the closure of the public lane and access arrangements as proposed by the applicant, Beliveau Developments Ltd.
2) The closed Public Lane is to be consolidated with the proposed Parcel "C".
3) The provision of an Access Easement Agreement, satisfactory to C.O.F. Haven Inc., for continued, unimpeded access for C.O.F. Haven Inc. residents, employees, etc. being registered as a caveat against title issuing for the private lane and proposed Parcel "C".

Urban Planning Division:

The subject lane is currently used as a primary vehicle access for the residents of 166 Beliveau Road and as one of two accesses for the residents of 180 Beliveau Road. The residents of 166 Beliveau Road enjoy the use of the lane with the City maintaining it.

The proposed lane closing application, as indicated by the applicant, is to enable the possible future construction of a new multiple family building behind the existing multi-family building at 180 Beliveau Road. However, there does not appear to be any real benefit to the owners of 166 Beliveau Road and its residents for the closing of the lane. As such, the Urban Planning Division supports and reiterates all of the comments provided by the Public Works Department. Specifically, that the lane is to be closed only if the owners of 166 Beliveau Road (C.O.F. Haven Inc.) are agreeable to the closure and that an Access Easement Agreement, satisfactory to C.O.F. Haven Inc. for continued unimpeded access for C.O.F. Haven Inc. residents and employees is registered against the private lane (to be consolidated with the proposed Parcel "C"). Additionally, the access easement agreement should ensure access to the subject lands at all times, via streets or internal roads, by City emergency vehicles.

Fire Paramedic Services:

1) The private lane providing access to the development shall have a minimum concrete pavement width of 6.0m.

2) The address for the building to be constructed within proposed Parcel "B" shall be clearly posted where the access route intersects Beliveau Road.
3) A new fire hydrant will be required for proposed Parcel "B".

Plan Examination Branch:

The applicant is required to submit a complete calculation by a design professional of the east exposed building face area of No. 166 Beliveau Road, including all window openings and wall construction, to ensure that the new property limit of the proposed private lane does not place the existing building at 166 Beliveau Road in contravention of the Manitoba Building Code. The calculation is to be submitted to the Plan Examination Branch, under seal, for review and approval.

Solid Waste Services Division:

Unimpeded access to the bin located at the rear of No. 166 Beliveau Road is required by refuse and recycling vehicles.

Zoning and Permits Branch:

The subject lane, if closed, is to be consolidated with the adjoining proposed Parcel "C". The applicant is also required to enter into a cross access agreement with the owners of No. 166 Beliveau Road.

Easements

There are no services within the closing area. No easements will be required.

Transfer of Jurisdiction Over Public Rights-of-Way

The lane must be legally closed before it may be sold. Title to all public rights of way in Manitoba is vested in the name of the Province. The registration in the Winnipeg Land Titles Office of a closing by-law removes the public right of way status from the land and vests the ownership of the property in the City's name. The City is not entitled to dispose of the land until this has been done.

Aerial View of Subject Closing



Miscellaneous Plan

