Minute No. 528
Report - Standing Policy Committee on Property and Development – July 15, 2011

Item No. 5 **Closing – Part of Beecher Avenue, east of Ferrier Street for incorporation into DASZ 15/2011**
(Old Kildonan Ward)
File DAC 12/2011

COUNCIL DECISION:

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

1. That the street closing as shown on Misc. Plan No. 14032/1 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 street closing in accordance with Misc. Plan No. 14032/1, 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.

Report - Standing Policy Committee on Property and Development – July 15, 2011

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 July 15, 2011, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 15, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 5, 2011, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

PUBLIC HEARING SUMMARY

File:	DAC 12/2011
Before:	Lord Selkirk - West Kildonan Community Committee Councillor Eadie, Chairperson Councillor Pagtakhan Councillor Sharma
Public Hearing:	July 5, 2011 North Committee Room Council Building, 510 Main Street
Applicant:	Global Homes Inc. (Bernhard Goertzen)
Premises Affected:	Part of Beecher Avenue, East of Ferrier Street for incorporation into DASZ 15/2011
Exhibits Filed:	1. Report from the Real Property Officer dated June 21, 2011 2. Inspection Report

REPRESENTATIONS:

In Support:

Mike O'Shaughnessy

In Opposition:

Nil

For Information:

John W. Stefanchuk

For the City:

Mr. B. Buyachok, Real Property Officer, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 12/2011

ADMINISTRATIVE REPORT

Title: **DAC 12/2011: TO SEEK COUNCIL APPROVAL FOR THE PROPOSED CLOSING OF PART OF BEECHER AVENUE, EAST OF FERRIER STREET FOR INCORPORATION INTO DASZ 15/2011**

Critical Path: **LORD SELKIRK – WEST KILDONAN COMMUNITY COMMITTEE – STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT - EXECUTIVE POLICY COMMITTEE – COUNCIL**

AUTHORIZATION

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

RECOMMENDATIONS

1. That the proposed street closing as shown on Misc. Plan No. 14032/1 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 street closing in accordance with Misc. Plan No. 14032/1, 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 street 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. Bernhard Goertzen of Global Homes Inc., to close and purchase part of the public street so identified on the attached copy of Misc. Plan No. 14032/1. Once closed, the street is to be incorporated into DASZ 15/2011, an application to subdivide and rezone the adjoining property as shown on the sketch.
The subject development is to consist of a multi-family housing complex including private roads and sidewalks. The portion of the development adjoining the proposed closing is City property. The applicant is in the process of purchasing this land.

On June 7, 2011, the Lord Selkirk – West Kildonan Community Committee concurred in the recommendation of the report of The Winnipeg Public Service dated May 31, 2011, as amended, and recommended that the plan of subdivision proposed under DASZ 15/2011 be approved by the Standing Policy Committee on Property and Development. The SPCPD will consider DASZ 15/2011 at its meeting to be held on July 5, 2011. The LSWK Committee's approval was subject to the Developer being required to enter into a Development Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated May 13, 2011 for Option 1, as amended by the Committee at its June 7, 2011 public meeting, that are consistent with Schedule "A" for File DASZ 15/2011 dated May 31, 2011. The subject closing conforms to the schematic for said Schedule "A" which appears in Appendix "A" of this report.

Beecher Avenue was created by the subdivision of the adjoining property and registered in the Winnipeg Land Titles Office by Plan No. 1100 in August of 1906. The current width of the Beecher Avenue right of way is a substandard 12.192m (40 feet). The subject closing will leave the balance of the right of way width at 7.25m (23.78 feet), which, by definition of The Highway Traffic Act, Section 1(1), would render the right of way to a public lane status.

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 Allstream and Shaw Cablesystems.

SUBMITTED BY

Department: Planning, Property and Development
Division: Development and Inspections
Prepared by: Bohdan Buyachok, Real Property Officer
Date: June 21, 2011
File No.

V:\development applications\daoc\dev application2011\dac12_2011\final_report\dac12.11rpt

APPENDIX "A"

Administrative Approval

The proposal has been considered by all affected City departments and public utilities. Notwithstanding that the subject closing is contained within subdivision and rezoning application DASZ 15/2011 which was recommended for approval by the Standing Policy Committee on Property and Development by the Lord Selkirk-West Kildonan Community Committee on June 7, 2011, there are conflicting administrative opinions on the conditions required to support the street closing.

Administrative Comments

Notwithstanding the recommendation for approval of DASZ 15/2011 as amended by the Lord Selkirk – West Kildonan Community Committee, the Transportation Division of the Public Works Department nonetheless recommends that the following clauses from the ACG Report for DASZ 15/2011 dated May 13, 2011 for Option 1 apply with respect to the proposed street closing: Clause 1, 2, 3, 13 and 15. These clauses are as follows:

1. The Applicant providing right-of-way to accommodate the proposed cul-de-sac turnaround at the proposed terminus of Beecher Avenue consistent with the dimensions shown on Streets and Transportation Drawing ST-90 (revised) or ST-90-A.

2. The Applicant transferring and legally opening property required for a 2.447-m widening to the Beecher Avenue right-of-way abutting the north limit of the Planned Area, to the proposed turnaround, to the satisfaction of the Director of Public Works.

3. The Applicant making application to legally close 4.942 m of the existing Beecher Avenue right-of-way, thereby creating the maximum allowable 7.25-m Public Lane right of way, and purchasing the portion of closed right-of-way from the City, to the satisfaction of the Director of Public Works.

13. The Developer shall, at no expense to the City, construct, in Beecher Avenue abutting the Planned Area, 150-mm-thick portland cement concrete pavement, to a width of 7.5 m and radius of 10.5 m, and all related works, including, but not limited to, street lighting, boulevard landscaping, sidewalk on the south side, and drainage works, all as determined by, and to the satisfaction of, the Director of Public Works.

15. The Developer shall, at no expense to the City, construct, in the proposed Public Lane from the turnaround at the proposed terminus of Beecher Avenue to the CPR Winnipeg Beach Subdivision, 150-mm-thick portland cement concrete pavement, to a width of 6.0 m, and all related works including, but not limited to, land drainage sewer, all as determined by, and to the satisfaction of, the Director of Public Works.

Notwithstanding the recommendation for approval of DASZ 15/2011 as amended by the Lord Selkirk – West Kildonan Community Committee, it is nonetheless the opinion of the Land Development Branch of the Planning, Property and Development Department that the subject closing not be included in the subdivision rezoning application. Land Development favours Option 2 of the Report of the Administrative Coordinating Group dated May 13, 2011, which provides for a cul-de-sac turnaround at the proposed terminus of Beecher Avenue as well as a 2.447m widening of the Beecher Avenue right of way abutting the north limit of the planned area.

The Planning and Land Use Division of the Planning, Property and Development Department recommends that should the proposed subdivision and rezoning application under File DASZ 15/2011 proceed, the Developer will be required, by means of a Zoning Agreement registered by way of Caveat against the applicable future parcels, provide a private road accessible to, and to the satisfaction of the Fire Paramedic Service.

Easements

Manitoba Hydro has identified existing services within the closing area and will require an easement for these facilities. No permanent structures will be allowed within the easement area.

Any removal or relocation of existing facilities as a result of the proposed street closing will be at the expense of the applicant.

No other services have been identified within the closing area.

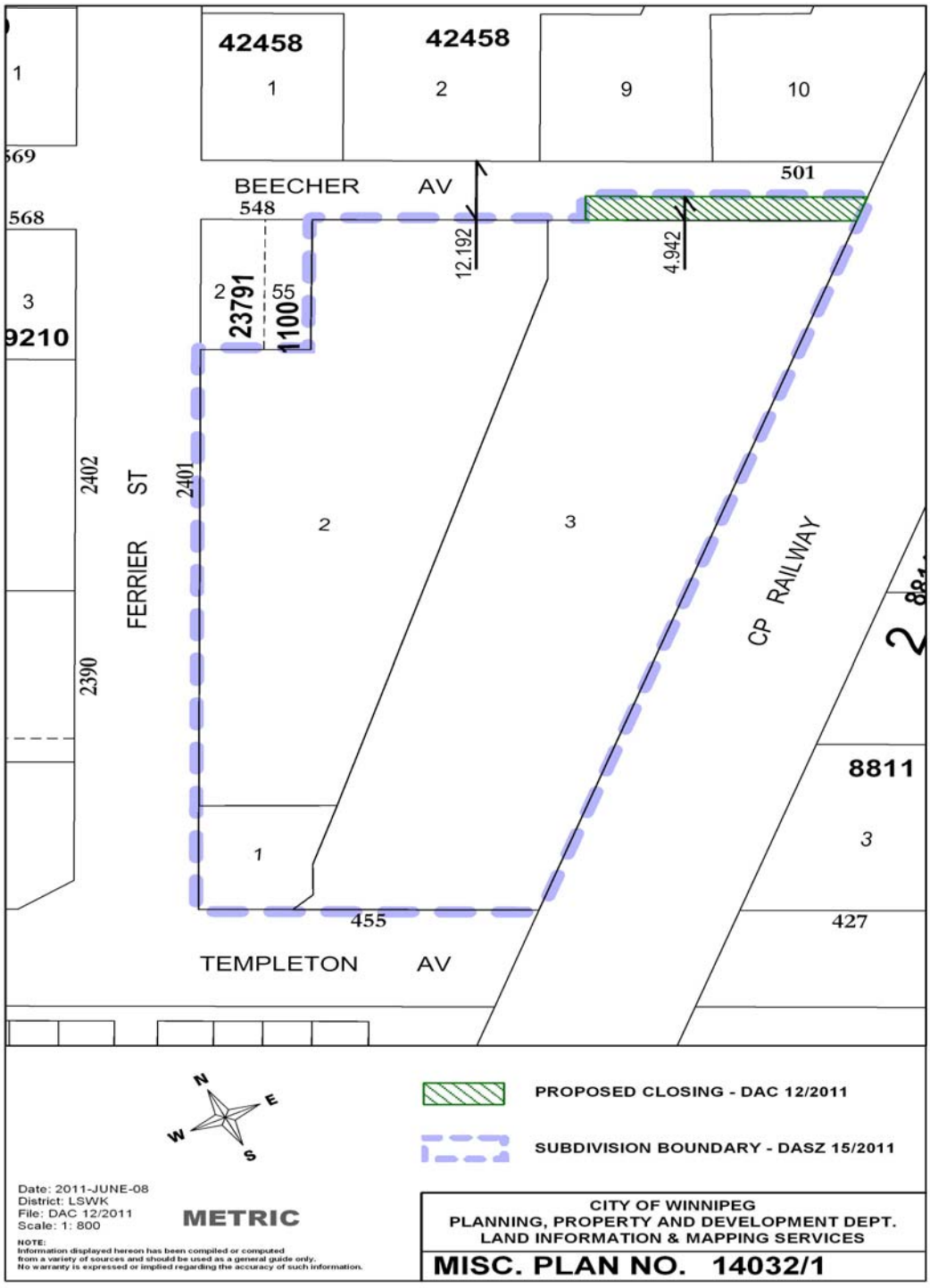
Transfer of Jurisdiction Over Public Rights-of-Way

The street 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.

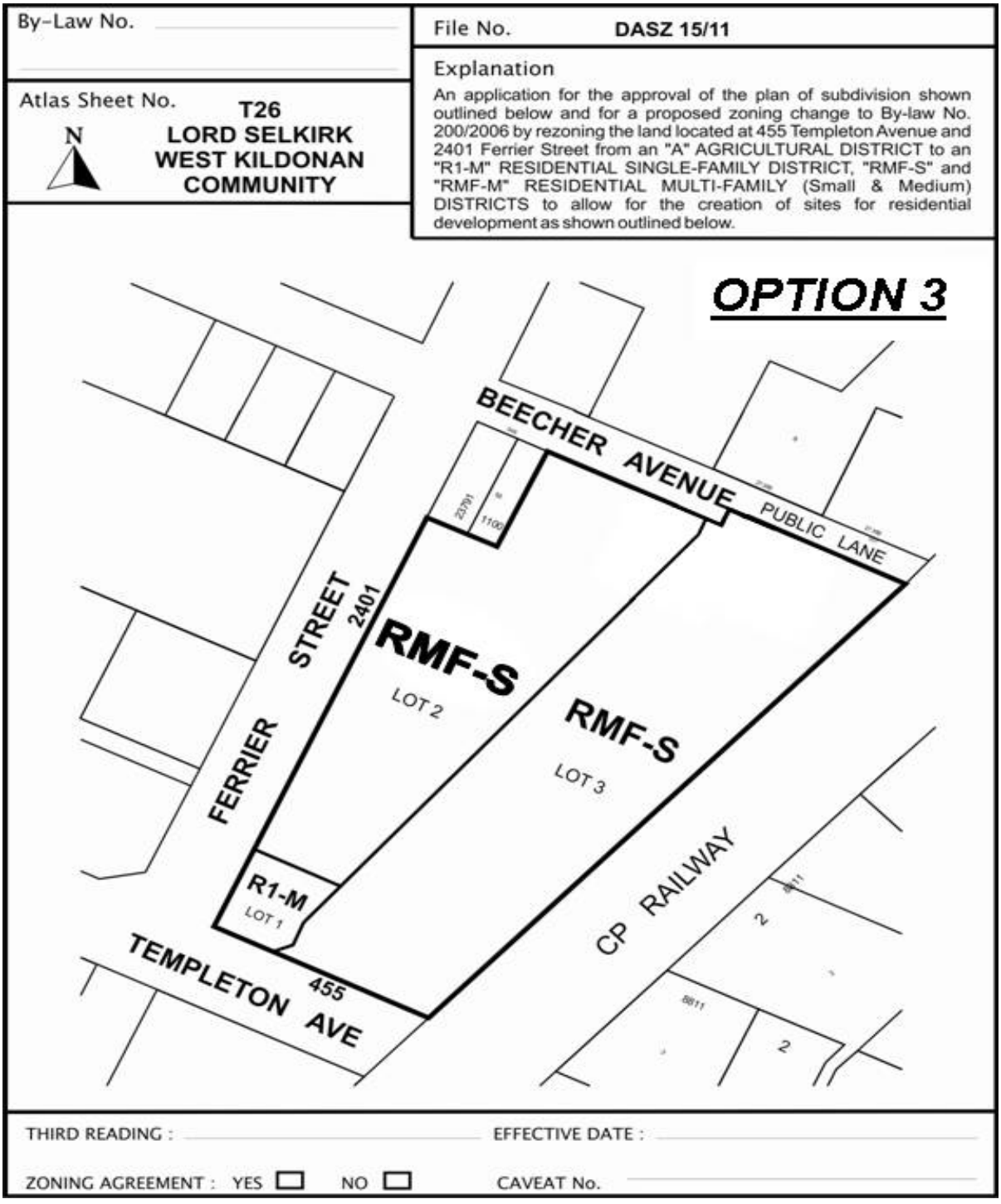
Aerial View of Subject Closing



Miscellaneous Plan



Schedule “A” – Recommended Plan of Subdivision and Rezoning, Option 3



Schedule "A" to the report to the Lord Selkirk – West Kildonan Community Committee for File DASZ 15/2011, dated May 31, 2011