Minute No. 556
Report - Standing Policy Committee on Property and Development - July 10, 2003

Item No. 2 **Armstrong's Point - Development of Blanchard Street ends for Riverbank Parkway Purposes**
File PR-4

COUNCIL DECISION:

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

1. That funding in the amount of $4,000.00 be approved from the City Centre Land Dedication Reserve Fund for the preparation of an easement plan and Conditional Use Application as part of the proposed development of the Blanchard Street Ends for Riverbank Parkway Purposes.

2. 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 10, 2003

DECISION MAKING HISTORY:

Moved by Councillor Vandal,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 16, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the City Centre Community Committee, and submitted the matter to Council.

STANDING COMMITTEE DECISION:

On July 10, 2003, the Standing Policy Committee on Property and Development concurred in the administrative recommendation Nos. 1 and 2, namely:

1. That Concept Plan No. 2 for the development of the Blanchard Street End east of East Gate as shown in Appendix "B" be approved.

2. That an Easement Agreement between the City and Owner of 89 East Gate in accord with terms referenced in the attached administrative report dated June 26, 2003, be approved..

STANDING COMMITTEE RECOMMENDATION:

On July 10, 2003, the Standing Policy Committee on Property and Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On July 8, 2003, the City Centre Community Committee recommended to the Standing Policy Committee on Property and Development:

1. That funding in the amount of $4,000.00 be approved from the City Centre Land Dedication Reserve Fund for the preparation of an easement plan and Conditional Use Application as part of the proposed development of the Blanchard Street Ends for Riverbank Parkway Purposes.

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

Re: **Armstrong Point – Proposed Development of Blanchard Street Ends for Riverbank Parkway Purposes**
City Centre Community
Fort Rouge – East Fort Garry Ward

For submission to: **Standing Policy Committee on Property and Development**

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

Report date: June 26, 2003

Recommendation(s):

1. That Concept Plan No. 2 for the development of the Blanchard Street End east of East Gate as shown in the attached Appendix "B" be approved.

2. That an Easement Agreement between the City and Owner of 89 East Gate in accord with terms referenced herein be approved..

3. That, subject to Council approval of Recommendation 4, the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

4. That subject to the approval of the City Centre Community Committee, Council approve funding in the amount of up to $4,000.00 for expenditure from the City Centre Cash in Lieu of Land Dedication Account for the preparation of an easement plan and Conditional Use Application.

REPORT SUMMARY

Key Issues:

- The closure of the Blanchard Avenue right of ways and conversion to riverbank parks has been a sensitive and contentious issue within the Armstrong Point Community for over 20 years.

- A consensus between the Owner of 89 East Gate, the Armstrong Point Association and the City has now been obtained for the closure of the Blanchard Avenue right of way east of East Gate. The remaining issue is a matter of resolving the final length of the private driveway as referenced in the report.

- The Planning, Property and Development Department is of the opinion that the proposed terms of easement in favour of 89 East Gate as referenced herein be approved.

Implications of the Recommendation(s):

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(s):

- The proposed resolution of this matter will address a longstanding dispute within 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:

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

Comment(s):

- It is proposed that an expenditure of up to $4,000.00 be approved from the City Centre Cash in Lieu of Land Dedication Account.

REASON FOR THE REPORT:

The Planning, Property and Development Department is, by this report, advising the Standing Policy Committee on Property and Development as to the status of this project and is seeking the Committee's approval to Recommendations 1, 2, and 3. Recommendation 4 will require Council's consideration and approval.

HISTORY:

At its meeting held on November 9, 1999, the City Centre Community Committee recommended as follows:

1. That the City Solicitor/Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the closing in accordance with Misc. Plan 10696, a copy of which is attached.
2. That the Real Estate Division of the Property and Development Services Department be instructed to enter into negotiations with the adjoining property owners to determine the disposition of the closed portions of Blanchard Avenue to the mutual satisfaction of the property owners and the area residents.
3. That following satisfactory completion of negotiations as outlined in Recommendation No.2, the necessary rezoning application be initiated to designate the street ends to be closed as parks and open space.

At its meeting held on November 23, 1999, the Standing Policy Committee on Property and Development considered and concurred in the foregoing recommendations of the City Centre Community Committee. The Standing Policy Committee on Property and Development recommended:

1. That the City Solicitor/ Manager of Legal Services be instructed to prepare the necessary by-law for submission to Council to effect the closing in accordance with Misc. Plan 10696, a copy of which is attached.
2. That the Proper Officers of the City be authorized to do all things necessary to effect the intent of the foregoing.

At its meeting held on December 15, 1999, Council adopted the above recommendations.

Between January 2000 and May 2003, the Real Estate Division has been negotiating with the adjoining property owners and has been in communication with the Armstrong Point Association.

DISCUSSION:

1. Proposed Development of Blanchard Avenue Right of Way east of East Gate for Passive Riverbank Park Purposes:

In order to develop the Blanchard Street Right of Way for riverbank passive park purposes, several implementation issues had to be resolved. A summary of the issues is as follows:

(a) Proposed Concept Plan(s)

As identified on the attached Misc. Plan No. 10696/1, the Blanchard Avenue right of way is situated between 77 and 89 East Gate. The right of way is unimproved, partially wooded and gently slopes towards the Assiniboine River.

To begin the negotiation process, the Planning, Property and Development Department sought to identify the property owner(s) and community stakeholder(s) expectations. The Planning and Land Use Division subsequently developed Concept Plans No. 1 and 2 for the development of the Blanchard Avenue right of way as referenced in the attached Appendices "A" and "B". As shown on the Concept Plans, it is proposed that the subject right of way be improved by grading and sodding the property and installing a pathway, park benches, a post and bollard chain fence, hedge, and a gate or vegetation within the existing gate adjacent to 77 East Gate. The only variance between Concept Plan Nos. 1 and 2 is the length of the proposed private driveway which would serve 89 East Gate.

The proposed cost of developing the right of way is estimated at $16,525.94 for Concept Plan No.1 as referenced in Appendix "C". The estimate would have to be updated for Concept No.2 to allow for the cost of extending the driveway. A funding source for this project has not been identified at this time. The City will not be financing the development of the passive park. The Armstrong Point Association will be responsible for the funding.

The Planning and Land Use Division, the Owners of 77 and 89 East Gate and the Armstrong Point Association have reviewed the concept plans and are in agreement excepting as to the length of the proposed private driveway adjacent to 89 East Gate.

The positions of the respective parties are summarized as follows:

- The Owners of 77 and 89 East Gate want the private driveway to extend to the second gate as shown on Concept Plan No.2 in order to provide access to the rear yard. The Owner indicated that access is needed to facilitate the delivery of materials such as topsoil and for maintenance vehicles such as aerial tree trimmers and grass mowers. The Owner is insistent on this matter as a condition of agreeing to the concept plan and to the proposed terms and conditions of an easement agreement.

- The Armstrong Point Association does not agree with Concept No 2 as they believe that the Owner, after having gained access to the backyard via the private driveway, will attempt to use same to park vehicles in the rear yard.

- The Planning and Land Use Division is not supportive of the request as access to the rear yard could be accomplished via the south portion of 89 East Gate at a location lying to the south of the house.

(b) Proposed Resolution of the Existing Access to 77and 89 East Gate

In order to proceed with a legal closure of this part of the Blanchard Avenue right of way, it will be necessary to negotiate an agreement with the owner of 89 East Gate.

In order to achieve a resolution to the access matter and to avoid the potential outcomes through a legal challenge and costs associated with same, the Division advises that a negotiated agreement with 89 East Gate is the preferred alternative. Additionally, it should be noted that the Owner of 77 East Gate would agree to waive its access and cross access challenge over the right of way should Concept No.2 be approved.

(c) Proposed Terms and Conditions of Easement:

The Real Estate Division prepared and provided a draft Easement Agreement to the Owner of 89 East Gate. After protracted negotiations with the Owners of 77 and 89 East Gate and consultation with the Armstrong Point Association, the Owners provided a written response dated May 19, 2003 (a copy is attached herewith as Appendix "D") to the City's proposed terms and conditions.

On the basis of the response, the Real Estate Division is satisfied that a finalization of terms of easement may now be achieved in accord with the following particulars:

Grantee:	David Saylor and Daniel Fontaine (Owners of both 77 and 89 East Gate)
Easement Price	$1.00
Location:	Blanchard Street Right of Way east of East Gate
Easement Area	the area constituting the private driveway
Zoning:	R1-6
Grantee's Responsibilities:	Maintain driveway, maintain hedge, remove all refuse, Use of driveway for ingress and egress to garage and for equipment and maintenance access to rear yard only; access to Manitoba Hydro to repair or replace existing underground hydro installation and no parking on the private driveway or to use driveway for access to the rear yard to facilitate vehicle parking.

City: Complete, construct driveway, obtain approvals

(d) Requirement to apply for a Conditional Use Approval:

The Zoning and Permits Branch advises that a "park" is not a permitted use within an R1-6 Zoning Category. As such, a Conditional Use application is required. The Planning, Property and Development Department is prepared to make this application. This process will take approximately (6) six weeks to complete and will cost $711.90 plus GST.

(e) Plan of Easement for Manitoba Hydro:

An underground hydro service is located within the proposed easement area to service 89 East Gate as shown on the attached Plan EA-2. As such, there will be a requirement to establish a second Easement Agreement in favour of Manitoba Hydro. The cost of the Plan of Easement is estimated at $3,000.00.

(f) Administration Costs:

The Department does not have available funding to finance the costs of the plan of easement and the conditional use application estimated at $3711.90 plus GST. The Department advises that as of May 31, 2003, the City Centre Community Cash in Lieu of Land Dedication Account had a balance of $127,000.00. As such, it appears that funding could be made available in the Land Dedication Account to pay for the Plan of Easement and Conditional Use application costs.

The request to pay for the costs has not been circulated to and approved by the Community Committee or Council.

(g) Road Closing:

Pending the finalization of the above, the Planning, Property and Development Department is prepared to complete the road closing plan and to have the by-law prepared for Council approval.

Departmental Comment:

The only unresolved issue is the matter of the length of the private driveway. Notwithstanding the opinion of the Armstrong Point Association on this particular matter, and notwithstanding the apparent fact that the owner of 89 East Gate could obtain access to their rear yard through another location on their property, it appears that the only way to bring closure to this long outstanding matter is to accept the owner's counter position and agree to enable a driveway in accordance with the design as shown on Option 2. An agreement on this point will remove the potential impediment to the legal closure of this part of the Blanchard Avenue right of way and will enable the development of the passive park to proceed.

As such, the Department is recommending the approval of the proposed Concept Plan No. 2 and of the proposed terms and conditions of easement in favour of the owner's of 89 East Gate.

2. Proposed Development of Blanchard Avenue Right of Way west of West Gate for Passive Riverbank Purposes:

In order to develop the Blanchard Street Right of Way situated to the west of West Gate, several implementation issues have to be resolved. The Issues are summarized as follows:

(a) Proposed Concept Plan(s):

As identified on the attached Misc. Plan 10696/1, the Blanchard Street right of way is situated between 86 and 112 West Gate. The right of way is unimproved and is heavily vegetated and gently slopes towards the Assiniboine River.

The Planning and Land Use Division developed a concept plan for the development of the Blanchard Avenue right of way as referenced on the attached Appendix "E". As shown, it is proposed that the subject right of way be improved by installing a pathway and a park bench.

The Planning and Land Use Division, the Owner(s) of 112 Westgate, the Mennonite Educational Society of Manitoba and Armstrong's Point Association have reviewed the concept plan.

The positions of the respective parties are summarized as follows:

- The owner of 112 West Gate does not support the development of the Blanchard Avenue right of way west of West Gate as a passive riverbank park. The owner is concerned about increased public access to the riverbank at this location and the potential impact on their occupation of their property from a nuisance and safety perspective. The owner did indicate a willingness to discuss the closure of the right of way in conjunction with an easement in favour of 112 West Gate and on the condition that no vegetation is removed and that no pathway is installed. This matter requires further negotiations.

- The Mennonite Educational Society of Manitoba owns property situated north of the Blanchard Avenue right of way and is separated by a small strip of land owned by the owner of 112 West Gate as well. The Society reviewed the proposed concept plan and is supportive of using the right of way for riverbank park purposes and of installing a pathway.

- The Armstrong Point Association has not demonstrated a "keen" desire to have the Blanchard Avenue right of way west of West Gate developed as a passive riverbank park.

- The Planning and Land Use Division supports the development of this part of Blanchard Avenue as a passive riverbank park.

The Real Estate Division has now determined that the owner of 112 West Gate is physically using this part of the undeveloped Blanchard Avenue as a vehicular approach to their property.

(b) Resolution of Existing Access to adjoining Owners – 112 West Gate:

In order to proceed with a legal closure of this part of the Blanchard Avenue right of way, it will be necessary to negotiate an agreement with the owner of 112 West Gate.

As of this date, the Planning, Property and Development Department has not yet reached a negotiated settlement with the Owner of 112 West Gate. The Department will continue to communicate with this owner to attempt to reach an agreement.

Financial Impact Statement

Date: June 23, 2003

Project Name: Armstrong's Point - Proposed Development of the Balnchard Street Ends for Riverpank Parkway Purposes

First Year of Program 2003

	2003	2004	2005	2006	2007
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	3,823	-	-	-	-
Total Funding	$ 3,823	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 3,823	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ 3,823	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	3,823	-	-	-	-
Net Budget Adjustment Required	$ 0	$ -	$ -	$ -	$ -

Additional Comments:

It is proposed that the estimated cost of $3,823.00 be funded from the City Centre Community Committee Cash in Lieu of Land Dedication Reserve Account. This will require approval by both the Community Committee and Council.

"Original signed by"
Gord Courage, Manager
Support Services Division

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

Planning and Land Use Division

Legal Services Division

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: D.Armstrong
PPD File #: 6915

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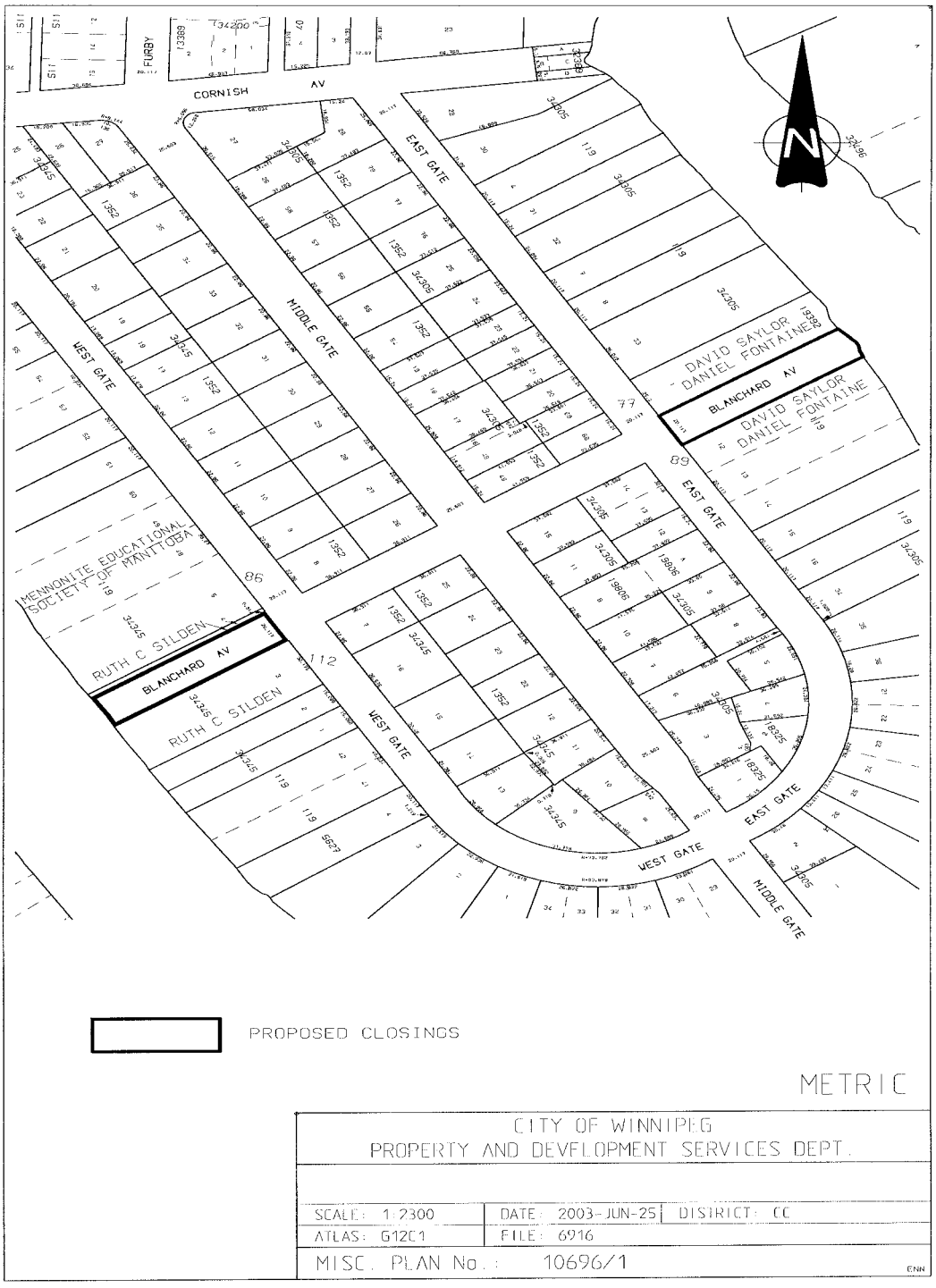
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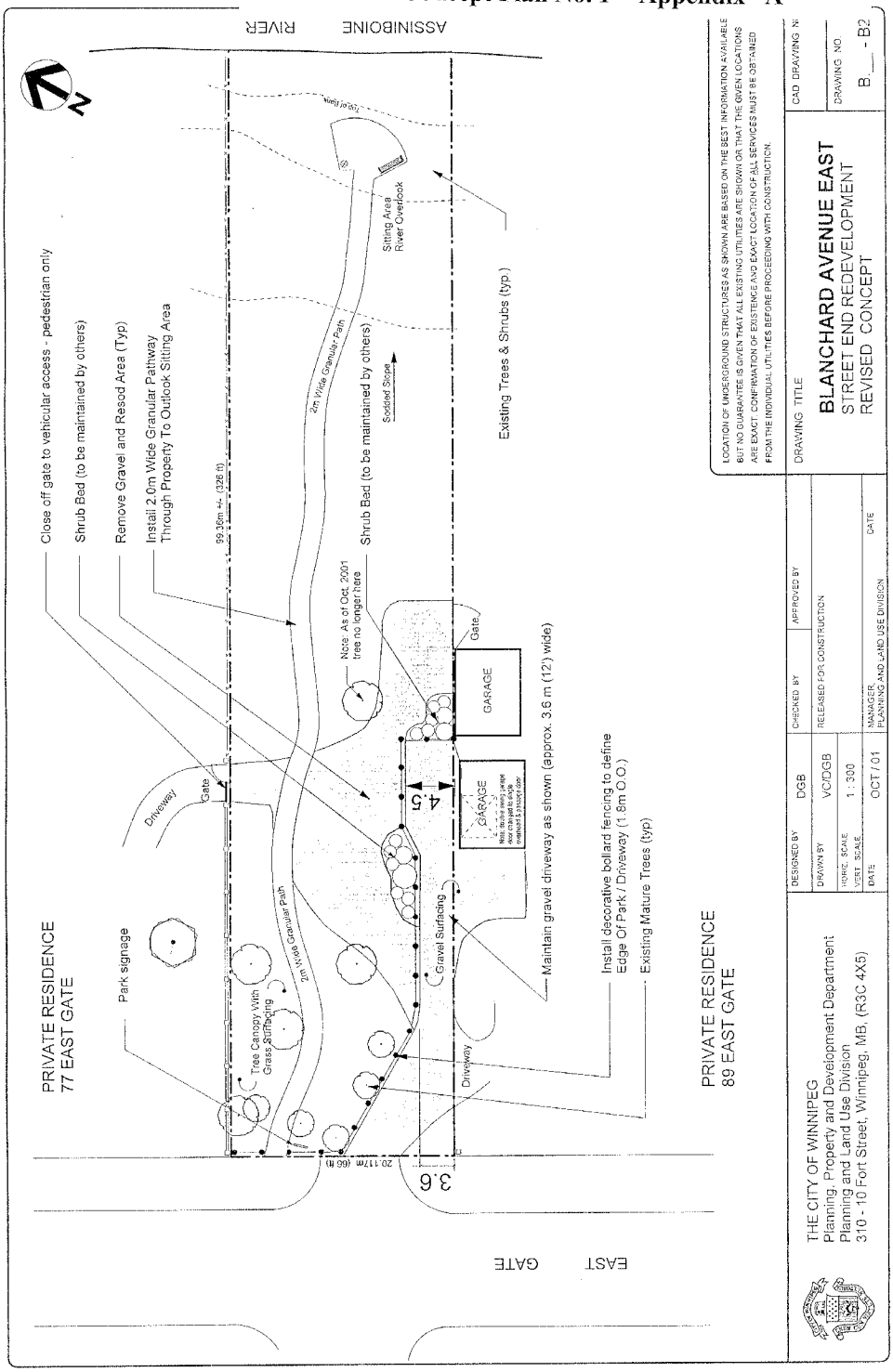
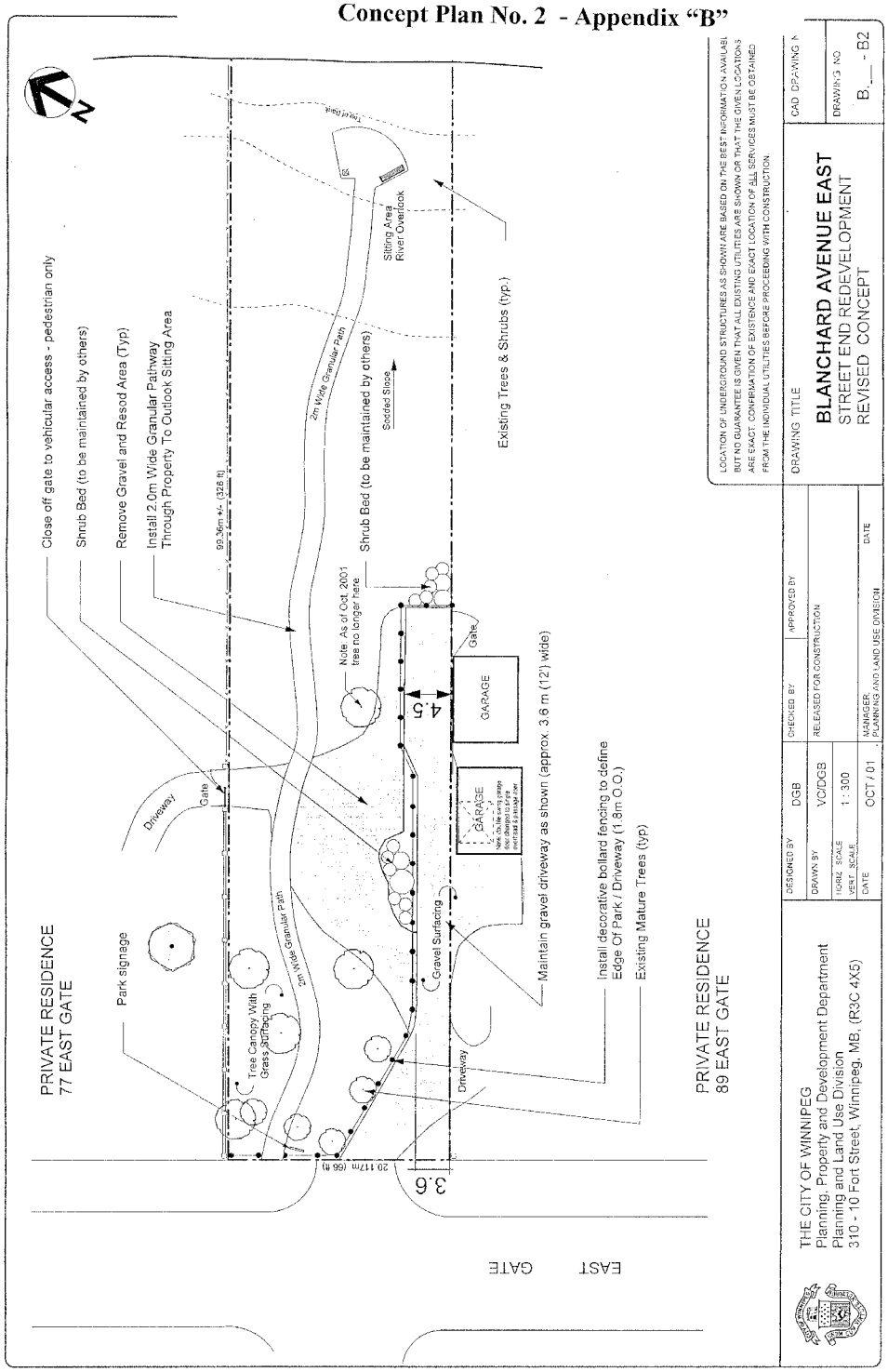
FURBY
EAST GATE
MIDDLE GATE
WEST GATE
BLANCHARD AV
DAVID SAYLOR
DANIEL FONTAINE
MENNONITE EDUCATIONAL SOCIETY OF MANITOBA
RUTH C SILDEN
PROPOSED CLOSINGS
METRIC
CITY OF WINNIPEG
PROPERTY AND DEVELOPMENT SERVICES DEPT.
SCALE: 1:2300
DATE: 2003-JUN-25
DISTRICT: CC
ATLAS: G12C1
FILE: 6916
MISC. PLAN No.: 10696/1

Concept Plan No. 1 - Appendix "A"



Concept Plan No. 2 - Appendix "B"



Park Development Cost Estimate - Appendix "C"

COST ESTIMATE

Planning, Property and Development Department

Planning and Land Use Division
Unit 15, 30 Fort Street

Winnipeg

Name BLANCHARD AVENUE - EAST STREET END

Project Site Development

Budget N/A

Total Budget $0.00

Item No.	Description	Unit	Approx. Quantity	Unit Price	Amount
1	Excavate and legally remove existing gravel surfacing	m3	55.5	$30.00	$1,665.00
2	Top soil & sod	m2	304	$12.00	$3,648.00
3	Wood post and chain fencing (6X6 square)	l.m.	69.5	$58.00	$4,031.00
4	Park Sign	I.S	1	$300.00	$300.00
5	Granular pathway and sitting area	m2	188	$12.00	$2,256.00
6	Tache Style Bench - 1.8 m	ea	1	$600.00	$600.00
7	Waste receptacle - permanent ornamental slat	ea	1	$550.00	$550.00
8	Waste receptacle - wire basket	ea	1	$150.00	$150.00
9	Shrub bed Preparation	m3	22.6	$30.00	$678.00
10	Shrub Planting - small	ea	20	$24.00	$480.00
11	Shrub Planting - medium	ea	6	$38.00	$228.00

Construction Cost Estimate	$14,586.00
Construction Contingency @ 10%	$1,458.60
Goods & Services Tax @ 3%	$481.34
TOTAL PROJECT COST ESTIMATE	**$16,525.94**

Prepared by : Donna Beaton, Planning Property & Development

Proposed Terms and Conditions of Easement - Owners Response May 19/ 03 - Appendix "D"

Monday, May 19, 2003

City of Winnipeg
Planning, Property & Development Department
Real Estate Division
2nd Floor- 65 Garry St.
Winnipeg, MB
R3C 4K4

Attn: D. Armstrong

Sirs:

Re: 69, 77, 89 East Gate
Proposals for the East end of Blanchard Ave

We have carefully reviewed the proposals in your latter dated April 22, 2002 and would be prepared to cooperate with the City on the following understandings:

1. The driveway as sketched should be expanded to 4.6 meters wide and extended to provide access to the back gate of 89 East Gate.
2. If the city requires fencing or landscaping to narrow access to 77 East Gate, this would be at the city's cost as we are currently unable to commit any expense.
3. Any fencing or hedging would be at the city's cost including the cost of installation.
4. Easement Agreement would be subject to approval of owners of 89 East Gate upon review by their Solicitor.
5. While extended parking of vehicles would not be allowed, reasonable periods for deliveries, loading and unloading of vehicles must be provided to the owners of the adjoining properties.
6. Any access to the public must be on a no- vehicle basis.
7. With reference to the draft Easement Agreement, Clause 4 should be revised to provide that any costs are the responsibility of the City.
8. The City to do all the work on the basis of approved drawings and to ensure no financial or other liability to the Grantees
9. The City to be responsible for preparing any survey and to provide a copy to the Grantee.
10. All permits and work done by the City
11. As to Clauses 6,7,8, the City and now Manitoba Hydro are possessed with the skill and knowledge of the underground installations. We cannot accept responsibility for doing any of the construction specified at the great risk described. The City must perform this work and obtain such protection, as it believes appropriate.

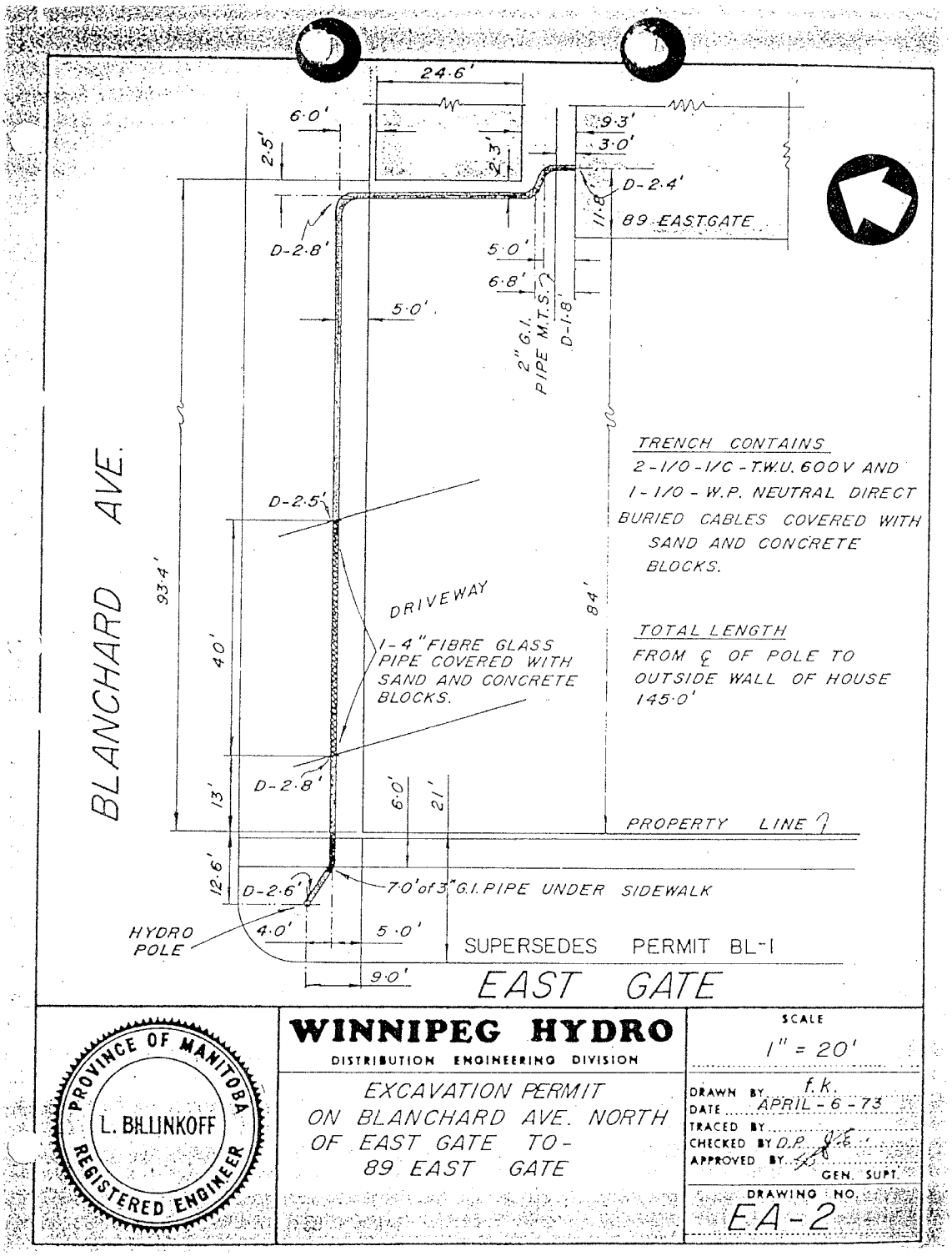
12. That an underground irrigation system would be constructed between 89 and 77 East Gate properties prior from construction of the Park.

We are, as always, prepared to cooperate fully with the City and the neighborhood, but cannot expose ourselves to a potentially ruinous undertaking when the expertise, ability and resources are clearly in the possession of the City of Winnipeg.

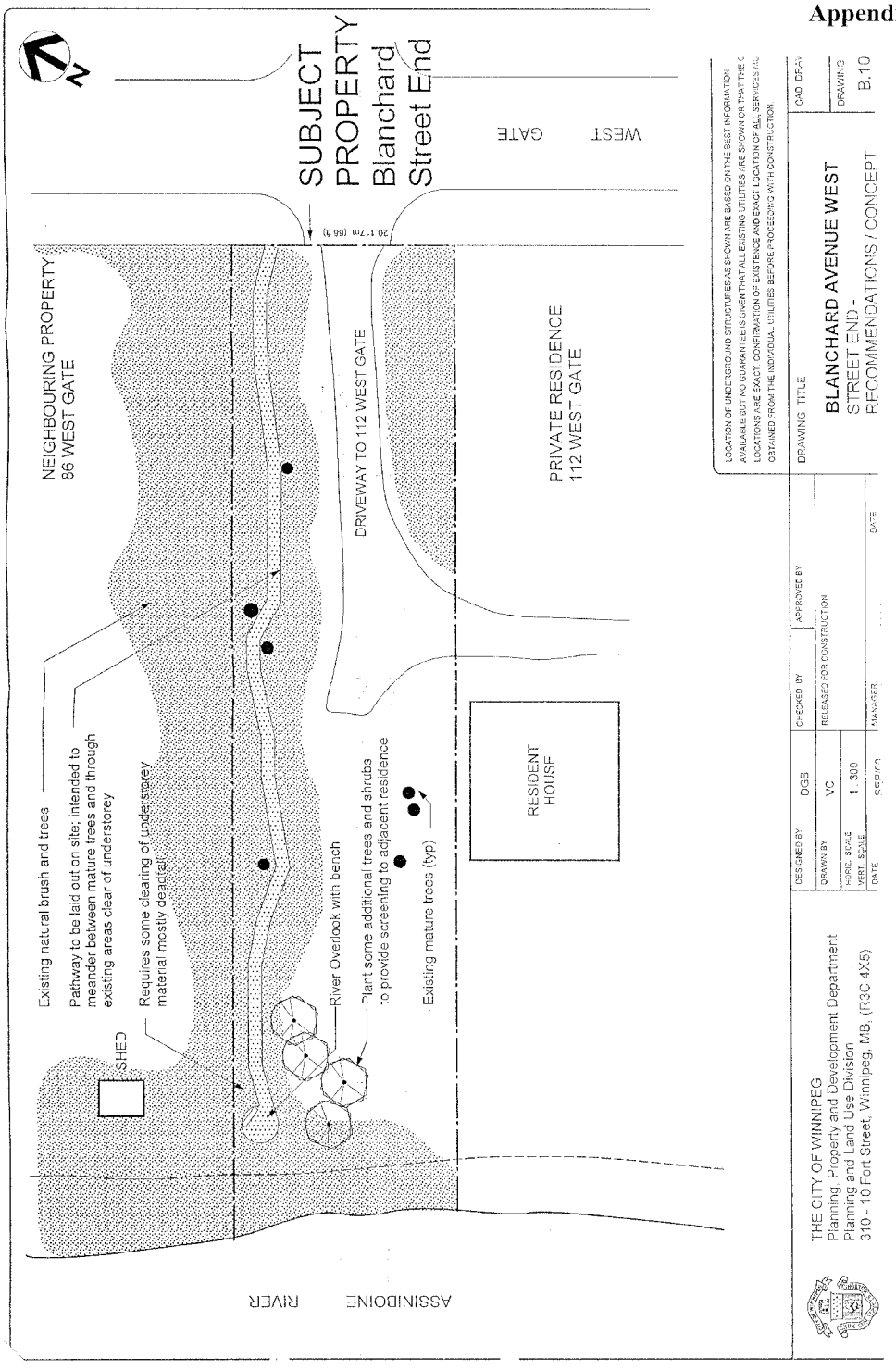
We look forward to any discussions on this matter, always on an amicable basis.

Daniel Fontaine and David Saylor
69, 77, 89 East Gate
Winnipeg, MB
R3C 2C2

Drawing No. EA-2



Appendix "E"


SUBJECT PROPERTY
Blanchard Street End
WEST GATE
20.117m (66.0')
NEIGHBOURING PROPERTY
86 WEST GATE
DRIVEWAY TO 112 WEST GATE
PRIVATE RESIDENCE
112 WEST GATE
RESIDENT HOUSE
Existing natural brush and trees
Pathway to be laid out on site; intended to meander between mature trees and through existing areas clear of understorey
Requires some clearing of understorey material mostly deadfall
SHED
River Overlook with bench
Plant some additional trees and shrubs to provide screening to adjacent residence
Existing mature trees (typ)
ASSINIBOINE RIVER
THE CITY OF WINNIPEG
Planning, Property and Development Department
Planning and Land Use Division
310 - 10 Fort Street, Winnipeg, MB. (R3C 4X5)
DESIGNED BY DGB
DRAWN BY VC
HORZ. SCALE 1 : 300
VERT. SCALE
DATE
CHECKED BY
RELEASED FOR CONSTRUCTION
MANAGER
APPROVED BY
DATE
DRAWING TITLE
BLANCHARD AVENUE WEST
STREET END -
RECOMMENDATIONS / CONCEPT
DRAWING B.10