Minute No. 219
Report - Standing Policy Committee on Property and Development - February 3, 2004

Item No. 9 **Closing of part of the Public Lane adjacent to 12 Berrydale Avenue File DAC 20/2003**

COUNCIL DECISION:

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

1. That the closing of part of the public lane adjacent to 12 Berrydale Avenue not be proceeded with.

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 - February 3, 2004

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 February 18, 2004, 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 February 3, 2004, 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 January 20, 2004, the Riel Community Committee did not concur in the administrative recommendation and recommended that the closing of part of the public lane adjacent to 12 Berrydale Avenue not be proceeded with,

and submitted its recommendation to the Standing Policy Committee on Property and Development.

PUBLIC HEARING SUMMARY

File:	DAC 20/2003
Before:	Riel Community Committee Councillor Vandal, Chairperson Councillor Angus Councillor Steeves
Public Hearing:	January 20, 2004 Community Committee Chamber, 219 Provencher Boulevard December 1, 2003 Community Committee Chamber, 604 St. Mary's Road
Applicant:	Louis and Ida Berthelette
Premises Affected:	12 Berrydale Avenue
Exhibits Filed:	1. Report from the Real Property Officer dated November 14, 2003 2. Inspection Report 3. Communication dated December 1, 2003, from Hamish Barrit in opposition to the application 4. Petition in opposition to the application purporting to contain the signatures of 57 area residents, submitted by Evelyn M. Buckels on January 20, 2004

REPRESENTATIONS:
In Support:
Louis Berthelette

In Opposition:
Hamish Barrit
Robert Bonsor
Lorraine Boulet
Evelyn Buckels
Jacques Courchaine
Rae Fines
Bruce Pride
Nicole Sabourin-Friesen

For the City:
Glen Halldorson, Real Property Officer, Planning, Property and Development
Exhibit "2" referred to in File DAC 20/2003

November 14, 2003

TO THE CHAIRPERSON AND MEMBERS
OF THE RIEL COMMUNITY COMMITTEE

RE: FILE NO. DAC 20/2003 - PROPOSED CLOSING OF THE PUBLIC LANE ADJOINING NO. 12 BERRYDALE AVENUE SAINT VITAL WARD

RECOMMENDATION:
That the Community Committee approve the proposed closing and recommend:

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. 12043.

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

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

HISTORY:
The Planning, Property and Development Department has received a request from Louis and Ida Berthelette, the owners of No. 12 Berrydale Avenue, to purchase the public lane adjacent to their property.

In their letter of application, the Berthelettes stated that they have experienced the following problems:

- The lane is too narrow. If two cars meet, one has to travel on the Berthelette's property to pass
- The six-foot fence at the rear of the Petro Canada station on the west side of the lane hides the lane from public view and makes it an ideal place for the trafficking of drugs and a place where ladies of the evening meet their clients
- Youths using the lane for drinking alcohol and racing their cars at all hours of the night
- Theft and vandalism to the Berthelette's cars and property

The Berthelettes intend to erect a fence at both ends of the lane to eliminate these problems.

DISCUSSION:
Administrative Approval

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

The Water and Waste Department advises that there is an existing 525mm land drainage sewer in the lane. An easement agreement to allow the servicing of this sewer line will be required. No improvements, other than fencing or landscaping, will be allowed in the lane.

The Transportation Division of the Public Works Department advises that the applicants will be required to obtain permits if they wish to retain the present approaches for private use. If the applicants do not wish to retain the approaches, they will be required to assume the costs of restoring the curb, boulevard and sidewalk on Berrydale Avenue.

The lane will assume the zoning of the adjoining properties if closed. The west half of the lane will assume the C2 zoning of the adjacent Petro Canada station and the east half will assume the R1-5 zoning of the Berthelette's property. The Zoning and Permits Branch advises that the Berthelettes will be required to make an application to change the zoning of the west half of the lane to R1-5. The Zoning and Permits Branch also requires the applicants to consolidate the title to the closed lane with the title to their property.

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.

THIS REPORT SUBMITTED BY:
Planning, Property and Development Department
Development and Inspections Division
Prepared by: Glenn Halldorson, Real Property Officer
File No. DAC 20/03

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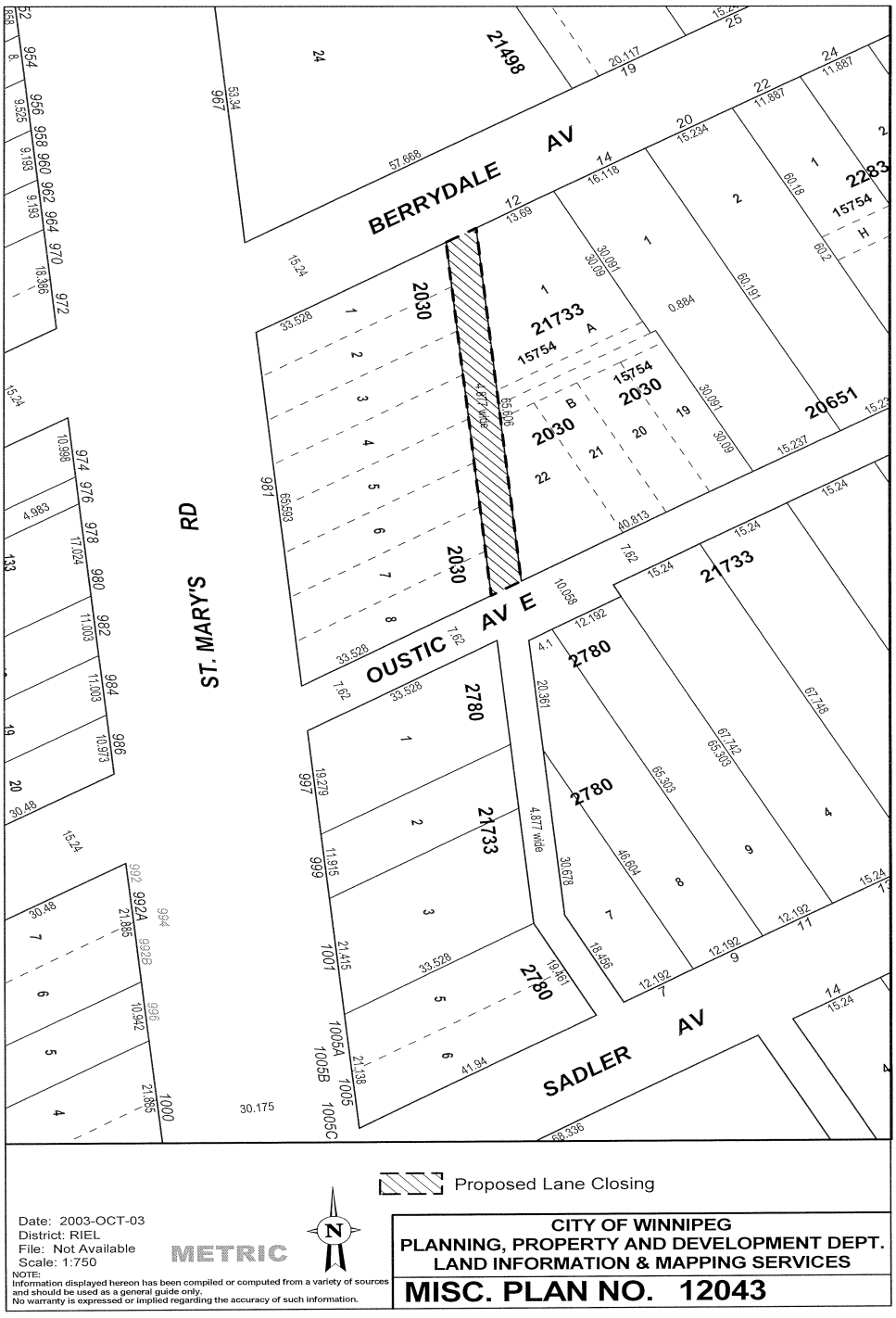
BERRYDALE AV
ST. MARYS RD
OUSTIC AV E
SADLER AV
21498
2030
21733
15754
2780
20651
2283
Proposed Lane Closing
Date: 2003-OCT-03
District: RIEL
File: Not Available
Scale: 1:750
METRIC
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only.
No warranty is expressed or implied regarding the accuracy of such information.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12043