

**Minutes – Appeal Committee – May 15, 2008****PUBLIC HEARINGS**

**Minute No. 26      Appeal – 0 Ridgewood Avenue  
(south side between Haney Street and Laxdal Road)  
(Charleswood - Tuxedo Ward)  
File DAV 103387A/2008C**

**COMMITTEE DECISION:**

The Appeal Committee denied the appeal and concurred in the decision of the Board of Adjustment to reject the application to vary the provisions of the “A” Agricultural District regulations of The Winnipeg Zoning By-law No. 6400/94 on “the land” for the establishment of a buildable lot to permit as follows:

1.      no frontage on an improved street (access is by way of easement over City-owned land);
2.      a lot area of 4 acres (1.62 hectares) instead of 40 acres (16.19 hectares);
3.      a lot width of 216.9 feet (66.11 metres) instead of 300 feet (91.44 metres).

Further, the Appeal Committee confirmed Variance Order DAV 103387/2008C.

**Minutes – Appeal Committee – May 15, 2008**

## DECISION MAKING HISTORY:

The Winnipeg Public Service advised that all statutory requirements with respect to this appeal have been complied with.

Moved by Councillor Vandal,

That the report of the Winnipeg Public Service be taken as read.

Carried

Moved by Councillor Vandal,

That the receipt of public representations be concluded.

Carried

Moved by Councillor Vandal,

That criteria (a) to (d) of Subsection 247(3) of The City of Winnipeg Charter, set out below, are not satisfied:

- (a) is consistent with Plan Winnipeg, and any applicable secondary plan;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) is the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is compatible with the area in which the property to be affected is situated.

Carried

Moved by Councillor Vandal,

That the appeal be denied and Order DAV 103387/2008C be confirmed.

Carried

Moved by Councillor Vandal,

That the decision of the Board of Adjustment be concurred in.

Carried

Moved by Councillor Vandal,

That the public hearing with respect to this appeal be concluded.

Carried



**THE CITY OF WINNIPEG  
VARIANCE APPEAL ORDER  
APPEAL COMMITTEE**

**DAV 103387A/2008C**

Before: Appeal Committee  
Councillor Swandel, Chairperson  
Councillor Fielding  
Councillor Vandal  
Councillor Wyatt

Hearing: May 12, 2008  
West Committee Room  
Council Building, 510 Main Street

Applicant: Derek Walker

Premises Affected: 0 Ridgewood Avenue  
(south side between Haney Street and Laxdal Road)

Legal Description: Lot 3, Plan 19965, 28/36 ST C, hereinafter called  
“the land”

Property Zoned: “A” Agricultural District

Zoning Atlas Sheet: AF16 (LP)

Nature of Application: To vary the “A” Agricultural District regulations of The  
Winnipeg Zoning By-law No. 6400/94 for the establishment  
of a buildable lot to permit as follows:

1. no frontage on an improved street (access is by way  
of easement over City-owned land);
2. a lot area of 4 acres (1.62 hectares) instead of 40  
acres (16.19 hectares);
3. a lot width of 216.9 feet (66.11 metres) instead of  
300 feet (91.44 metres).

ORDER MADE BY THE BOARD OF ADJUSTMENT:

The Board of Adjustment rejected a Variance, File DAV 103387/2008C, to Derek Walker, for premises located at 0 Ridgewood Avenue (south side between Haney Street and Laxdal Road), Winnipeg, for the establishment of a buildable lot to permit as follows:

1. no frontage on an improved street (access is by way of easement over City-owned land);
2. a lot area of 4 acres (1.62 hectares) instead of 40 acres (16.19 hectares);
3. a lot width of 216.9 feet (66.11 metres) instead of 300 feet (91.44 metres).

Pursuant to the provisions of The City of Winnipeg Charter, David Palubeski on behalf of Derek Walker, appealed to the Appeal Committee against Variance Order DAV 103387/2008C and after Notice, the appeal was heard on May 15, 2008.

Upon consideration of the evidence adduced and submissions made, the Appeal Committee is of the opinion that, subject to the condition(s) imposed under this Appeal Order if any, criteria (a) to (d) of Subsection 247(3) of The City of Winnipeg Charter, set out below, are not satisfied:

- (a) is consistent with Plan Winnipeg, and any applicable secondary plan;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) is the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is compatible with the area in which the property to be affected is situated.

## ORDER:

The Appeal Committee hereby orders that the appeal is dismissed and that Variance Order DAV 103387/2008C dated March 28, 2008, is confirmed.

DATE OF ORDER: May 15, 2008

CERTIFIED BY:



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Monique Wright  
Clerk of the Appeal Committee

THE FOLLOWING PERSONS MADE REPRESENTATIONS:

In Support of the Appeal:

David Palubeski, Lombard North Group (on behalf of Derek Walker)

In Opposition to the Appeal:

Lois Caron  
Claire and Irene Coleman  
Verna Hare  
Janice Lukes  
Don Seymour and Hilary Hanson  
Margaret Young  
Wayne Young

For Information:

Paula Makarenko

For the City:

Kurtis Kowalke, Planner, Planning, Property and Development Department  
Jim Telencoe, Development Planning Officer, Planning, Property and Development Department

## EXHIBITS FILED FOR DAV 103387A/2008C:

- A. Order issued by the Board of Adjustment dated March 28, 2008
- B. Notice of Appeal filed by David Palubeski, on behalf of Derek Walker, received April 16, 2008
- C. Notification of Public Hearing before the Appeal Committee dated April 29, 2008
- D. Confirmation from the Zoning Development Administrator that the subject property may be posted in substitution for newspaper advertising
- E. Atlas Sheet
- F. Plan, Sheet 1, for File DAV 103387/2008C dated June 16, 2008
- G. Report from the Planning and Land Use Division dated March 19, 2008
- H. Inspection Report
- I. Communication in opposition to the appeal from Bruce Johnson dated March 20, 2008
- J. Communication in opposition to the appeal from Valerie Ostash dated May 7, 2008
- K. Communication in opposition to the appeal from Tom and Vera Hamson dated May 7, 2008
- L. Communication in opposition to the appeal from Paul Jordan, Chair, Winnipeg Trails Association dated May 8, 2008
- M. Communication in opposition to the appeal from Doreen and Russell Rosen dated May 11, 2008
- N. Supplementary Report from the Planning and Land Use Division dated May 7, 2008
- O. Communication in opposition to the appeal from Elisabeth Ostrop, Manitoba Recreational Trails Association Inc. dated May 12, 2008
- P. Communication in opposition to the appeal from Ken Glitnak dated May 13, 2008
- Q. Communication in opposition to the appeal from Brian Armstrong dated May 13, 2008
- R. Communication in opposition to the appeal from Pat Brooks dated May 14, 2008
- S. Communication in opposition to the appeal from Gordon McColm dated May 14, 2008
- T. Communication in opposition to the appeal from Ian Greaves dated May 13, 2008
- U. Communication in opposition to the appeal from Sandi D'Amico dated May 14, 2008
- V. Communication in opposition to the appeal from Bill and Lovey Gitnak dated May 14, 2008
- W. Photographs of the subject site (2) and entrance to Marj Edey Park/Varsity View Sportsplex (1), submitted at the public hearing by David Palubeski, on behalf of Derek Walker, in support of the appeal
- X. Petition purporting to contain 19 signatures in opposition to the appeal submitted at the public hearing by Hilary Hanson
- Y. Communications (16) in opposition to the appeal submitted at the public hearing by Hilary Hanson
- Z. Written presentation in opposition to the appeal and accompanying information brochure re: Harte Trail submitted at the public hearing by Hilary Hanson

Exhibit "Z" referred to in File DAV 103387A/2008C



Friends of the Harte Trail

Attn: Monique Wright  
 Clerk of the Appeal Committee  
 City of Winnipeg  
 City Clerk's Office  
 510 Main Street  
 Winnipeg, Manitoba R3B 1B9

RE: O RIDGEWOOD  
 FILE: DAV 08-103387/C

The Harte Trail is situated in Charleswood on the bed of the historic Grand Trunk Pacific Railway Line, and is 5.5 KM. long stretching from the Perimeter Highway to Elmhurst Road. Charleswood residents began working to achieve official trail status in the early 1970's. This status was granted by the City of Winnipeg on April 9, 1999, as indicated in James Veitch's report. The Harte Trail is now part of the Winnipeg Trails Association network, and an important part of the Trans Canada Trail System as it passes through Winnipeg. The Friends of the Harte Trail is a nonprofit, volunteer based group that was formed to steward this very popular community recreational trail.

Since 2000, the Friends of the Harte Trail have:

1. Surfaced the entire trail with crushed limestone, with a further top-up in 2007.
2. Improved access points to the trail and worked on safety issues at all trail/road intersections.
3. Installed signage/ notice boards along the trail and a boulder with bronze plaque at Elmhurst commemorating the trail's history.
4. Through the City of Winnipeg's donate a bench program, 6 benches to date have been donated to the Harte Trail by members of the community.
5. During the summer of 2007, our Green Team planted 200 trees and shrubs along the trail.
5. Through the Trans Canada Trail Foundation, interpretive signage plus a trailhead sign have been installed. Not counting the hours of volunteer time, our organization has raised approximately \$80,000 for the above work.

THIS IS EXHIBIT "Z" REFERRED TO  
 IN FILE NO. DAV 103387A/2008C  
 DATED THIS 15 DAY OF 12 2008

*Monique Wright*

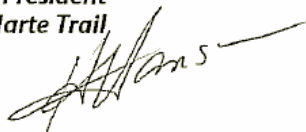
CLERK

*The Friends of the Harte Trail strongly oppose the granting of an easement across this very popular community recreational trail for the following reasons:*

- 1. Granting of an easement would set a precedent. How many owners of land south of the Harte Trail might then request the same, a move that would be counter to the City of Winnipeg's plan for Ridgewood South. We believe that the Harte Trail should be kept intact for the benefit of the community.*
- 2. Safety is a major consideration for any trail, especially where roads and trails meet. The Harte Trail is no exception and the safety of our users is paramount. Cyclists, dog walkers, active seniors and local school groups are some of the many people who use the trail on a regular basis. Kids commute to school or to the local skateboard park using the Harte Trail. Our organization has worked with our contractor to insure that all road / trail intersections provide a clear line-of-sight to and for approaching vehicles. Stop signs are also in place at all trail / road intersections. The only crossing where there is no clear line-of-sight is off Ridgewood at the entrance to Marj Edey Park, the only trail crossing off Ridgewood at the present time. The Friends of the Harte Trail understand the City of Winnipeg has plans to close this crossing, and move the Park's entrance to Fairmont, a plan applauded by our organization. Why then grant a new easement crossing the Harte Trail off Ridgewood, which would create the same safety issues?*
- 3. The single family dwelling that the applicant plans to build will require a lengthy period of construction. If the requested easement were to be granted this will be the only access for heavy equipment, materials delivery, and construction workers. The damage to the trail bed would be significant, and likely make the trail unusable during this period, and major repairs to the trail would be needed following construction.*
- 4. Finally, what quantity of vegetation would have to be removed to provide a clear line-of-sight onto Ridgewood for this easement. Vegetation loss of any kind detracts from the enjoyment of the trail and the Friends of the Harte Trail fundraise in order to do plantings along the trail.*

*We hope that our reasons for opposing the granting of this easement will be considered in light of the Harte Trail's importance as a community treasure and asset.*

*Hilary Hanson, President  
Friends of the Harte Trail*





**Support the Friends of the Harte Trail**

- > Become a member - \$15.00/year for a family or \$10.00/year for a single member. Membership runs from October to October when our AGM is held. A membership shows your support for the preservation of the trail. Membership fees are used to fund administrative costs such as brochures, newsletters, postage, printing costs, etc. Membership also entitles you to vote on trail issues and election of the executive at the Annual General Meeting. A copy of our constitution is available to members on request.
- > Donate for trail improvement. Since the trail was officially established, the Friends of the Harte Trail have been active in promoting the trail and fundraising to make possible some necessary improvements such as resurfacing the trail with limestone and improving access to the trail at key points such as Buckingham and Riddgewood. A tax receipt will be issued for a donation of \$20.00 or more. A charitable number is assigned to us through our membership in the Manitoba Recreational Trails Assoc.
- > Volunteer your time. Join the occasional party for trail clean-ups, pruning, and general trail maintenance. Or put your name forward to serve on our executive (2 year terms). New ideas and energy are always welcome!
- > One of our new projects is the Van Roon Prairie Garden, located next to the Harte Trail at Cullen Drive. As this project progresses, work parties will be needed and your help would be most welcome.

**For more information, please contact  
Don or Hilary at 897-5991 or e-mail  
[hartetrail@mts.net](mailto:hartetrail@mts.net)**

**TRAIL ETIQUETTE**

- > Cyclists - Wheels yield to heels. Please slow down when you meet walkers, especially when approaching from behind. Give a polite, audible warning voice or bell.
- > Dog Walkers - Please control your pet(s) and carry plastic bags for waste scooping.
- > Use caution at intersections along the trail. Stop signs are posted at all trail/road intersections for your safety.
- > Help keep the trail litter free for everyone's enjoyment. Use the garbage bins that have been provided. Remember, it is volunteers who maintain the trail and do the clean ups. Please help to make their job easier.
- > The Harte Trail is a significant wildlife habitat and corridor. Please respect the wildlife and their habitat while enjoying the recreational use of the trail.



**For more information contact:  
Don or Hilary at 897-5991 or  
e-mail [hartetrail@mts.net](mailto:hartetrail@mts.net)**

**Or check us out on the MRTA website  
[www.mrta.mb.ca](http://www.mrta.mb.ca)  
Or Winnipeg Trails Association  
[www.winnipegtrails.com](http://www.winnipegtrails.com)**

**HARTE TRAIL**



**PROTECTING AND PRESERVING  
A CHARLESWOOD TREASURE**

*The Harte Trail is located in Charleswood and is a significant part of the Trans Canada Trail as it passes through Winnipeg. Established on the bed of an historic railway line, this limestone trail runs from the Assiniboine Forest to the Perimeter Highway.*

**TRAIL HISTORY**

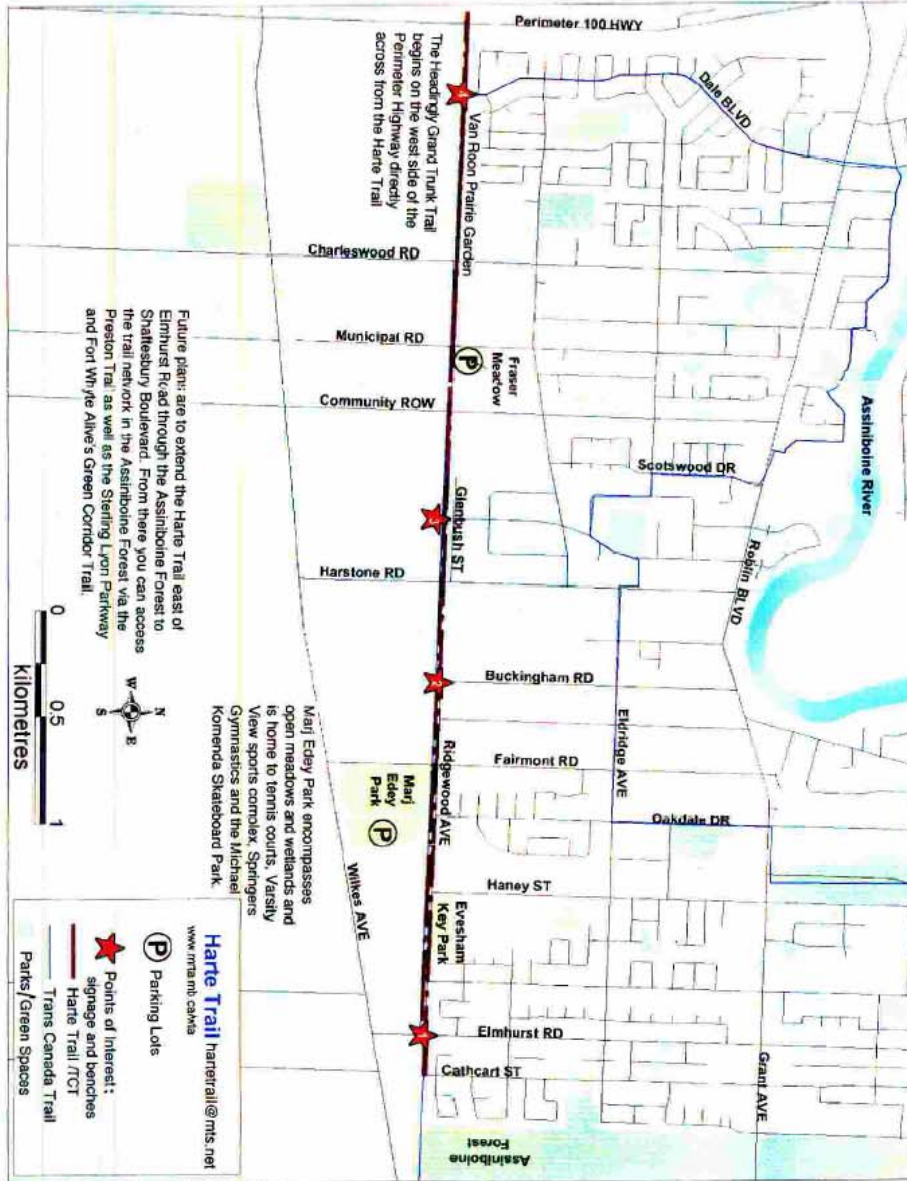
The Harte Trail follows the rail bed of the historic Grand Trunk Pacific Railway. Later acquired by the CN, this railway line was an important transportation corridor from 1894 until 1972 when the CN abandoned the line. The last train to use the tracks was the Prairie Dog steam train. The land was transferred to the City of Winnipeg, and became part of the streets and roads plan for Charleswood. However, public pressure persuaded the City government to declare the land a public green space for the purpose of becoming part of the Trans Canada Trail in Winnipeg. The trail was officially opened at a ribbon cutting ceremony on July 2, 2000, when the Trans Canada relay runners carried the ceremonial waters from the Arctic and Pacific Oceans along the trail on their route across Canada. The relay culminated in Ottawa to meet the eastern relay teams carrying waters from the Atlantic Ocean. The trail is named "Harte" after the old railway subdivision in this area. At Elmhurst Road, a bronze plaque has been installed by the Friends of the Harte Trail to commemorate the history of the trail. Amenities along the trail include benches, notice boards and a TCT trailhead sign located at Cullen Drive.

**THE FRIENDS OF THE HARTE TRAIL**

The Friends of the Harte Trail is a non-profit, volunteer based organization that has been involved with the creation and ongoing stewardship of the trail since the late 1990's. Our mission statement is: "To preserve and maintain the Harte Trail and promote its use for the recreational and educational benefit of present and future generations."

**The Friends of the Harte Trail support:**





**Friends of the Harte Trail - Membership Form (\$10 per person, \$15 per family) please print**

Name: \_\_\_\_\_

Address: \_\_\_\_\_ Postal Code \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Names of voting family members (18 years and older)

Mail to: **Friends of the Harte Trail**  
c/o Naturalist Services Office  
5006 Roblin Blvd.  
Winnipeg, Manitoba  
R3R 0G7

**Make payable to: Friends of the Harte Trail**  
**Payment enclosed:**

Membership: \$ \_\_\_\_\_

Donation: \$ \_\_\_\_\_  
(tax deductible receipt for \$20.00 or more)

Willing to help with: phoning \_\_\_\_\_ trail maintenance \_\_\_\_\_ fund raising \_\_\_\_\_ newsletter \_\_\_\_\_ events \_\_\_\_\_



Exhibit "Y" referred to in File DAV 103387A/2008C

May 14, 2008

Re: Request for easement on land  
affecting the Harte Trail.

As a person who regularly uses and enjoys the Harte Trail, I am strongly opposed to such a proposal. The number of people who use the Harte Trail - people with dogs, bikers, hikers, bird-watchers etc. has been growing steadily and it would, in my opinion, be shameful to permit any adjacent development that would result in safety issues for people and pets, possible damage to the Harte Trail, and increase further potential problems.

Sincerely  
Robert W. Nero

THIS IS EXHIBIT "Y" REFERRED TO  
IN FILE NO. DAV 103387A/2008C  
DATED THIS DAY OF 2008  
M. Nelson  
CLERK

I have been a resident of Charleswood  
for 50 years and I am very strongly  
opposed to this proposal of "easement on land  
affecting the Harte Trail".

We, my daughter and son-in-law, Neil  
& Karen & Smith who also live here, have enjoyed  
the Harte Trail over the years for hiking, biking,  
bird-watching, etc.

Please do not <sup>allow</sup> a precedent to be set  
by this proposed "development" you are setting  
in motion.

We are in solidarity with the Friends of  
the Harte Trail.

Mrs. Marilyn France

Mr. Neil Smith

Mrs. Karen Smith.

TO WHOM IT MAY CONCERN,

I AM OPPOSED TO ANY EASEMENTS OR VARIANCES CROSSING THE HARTE TRAIL.

I AM A LONG TIME USER OF THE HARTE TRAIL OVER 10 YEARS! I FEEL THAT

THERE ARE ENOUGH ROADS AND VARIANCES AS IS; AND ANY MORE WILL DEFINITELY DETRACT FROM THE ATMOSPHERE AND INTENT OF THE TRAIL. WE HAVE A UNIQUE SITUATION WITH THE HARTE TRAIL AND THE NEED TO PRESERVE & PROTECT THE TRAIL IS MOST IMPORTANT TO, NOT JUST THE PRESENT USERS, BUT THOSE USERS THAT WILL COME TO USE IT IN THE FUTURE.

THE FACT THAT LARGE TRACTS OF HOUSING/SUBURBIA ARE SLATED TO REMOVE THE GREEN SPACE SOUTH OF THE HARTE TRAIL MAKES ALL EFFORTS TO PROTECT THE AMBIENCE OF THE HARTE TRAIL VITALLY IMPORTANT TO MYSELF, MY SPOUSE AND FELLOW NEIGHBOURS

MARK THORNTON  
+ LORIE GIBSON



Lorie Gibson



May 14th, 2008.

Monique Wright,  
 Clerk of the Appeal Committee,  
 Council Building 510 Main Street,  
 Winnipeg, R3B-1B9.

We are in solidarity with Friends of the Harte Trail  
 In round 2, as an appeal has been submitted  
 Re: a purchase of property south of the trail  
 As: Friends of the Harte Trail will attend and present objections  
 On the basis of:

- 1 Getting a priority of cutting through the trail
- 2 Safety issues
- 3 Damage to the trail
- 4 The Harte trail is no longer part of Street and Roads  
 and would not be considered for road development

Thank you.

We remain  
 Yours respectfully  
 Ganda Lalbakhani  
 and  
 For Nibbi Lalbakhani

Pat + Tom Brooks

**From:** Pat & Tom

**To:** clcoleman9@yahoo.com

**Subject:** Harte Trail

**Date:** Wed, 14 May 2008 09:00:10 -0500

Claire

I Have e-mailed Monique Wright re: Trail, hope you are successful in opposing the appeal. There are plenty of other places to build without disturbing the trail.

Pat Brooks, 618 Coventry

Margaret & Greg Zoske  
D.A.

May 14, 2008

Ms. Monique Wright  
Clerk of the Appeal Committee  
Council Building  
510 Main St.  
Winnipeg, MB  
R3B 1B9

Dear Ms. Wright,

Please accept this letter as our opposition to the proposed development across the Harte Trail in Charleswood.

We have lived in Charleswood for the past 14 years. We moved to this area not only because of the natural beauty that exists here but also because there was no development at the end of our street. We have enjoyed the Harte Trail over the years and often take our son on this trail, walking or bike riding, because of the lack of vehicular traffic.

We feel that should this proposed development be built, not only the beauty of this trail will be affected but the safety of children and families living in this area will be affected with the increase in traffic crossing the trail.

Should you have any questions, please feel free to contact us.

Sincerely,

Margaret & Greg Zoske



May 12, 2008

Attention: Monique Wright-Clerk of the Appeal Committee  
Council Building-City Hall  
510 Main Street Winnipeg R3B1B9

Re: 0 Ridgewood-Harte Trail Easement Appeal # DAV08-103387C

The undersigned wish to register their opposition to the request for a variance concerning the above. The variance notice speaks to a 4 acre property {that the easement would service} out of an existing 40 acres. The precedent of granting this easement could be followed by numerous other variance requests to dissect the Harte Trail for properties yet to be subdivided. Granting any easements would destroy the continuity of the Trail.

Gary and Lorna Pryce

Handwritten signatures of Gary and Lorna Pryce. The signature on the left is 'G. Pryce' and the signature on the right is 'Lorna Pryce'.

cc. Councillor Bill Clement – Charleswood-Tuxedo Ward

March 26, 2008

City of Winnipeg,  
Attention: Planning Division,  
510 Main St.  
Winnipeg, Mb.

Re: Application for variance: 0 Ridgewood St. – lane crossing Hart Trail

Please be advised that we are the owners of a home on 842 Haney St. which is located very close to Ridgewood Ave. and the Hart Trail.

We are strongly opposed to any action which will make the Hart Trail less safe for the many Winnipeg citizens who use this beautiful trail during all seasons. The fact that the Hart is part of the Canadian Trail makes this issue even more important.

We have conversed with Mr. James Veitch of the Planning Division to apprise ourselves of the facts behind this private variance request. Through this means we have learned that the City Planning Division has recommended that the variance **not** be approved and our opinion is that this recommendation is very sound.

Because we just learned about the hearing on this issue and the fact that it is scheduled for this very evening, we have not had the opportunity to discuss it with our neighbors. However, having been very involved with past issues regarding road safety in our neighborhood, we can be very certain that other Charleswood residents would have similar views to ours.

In conclusion, we urge officials at all levels to reject this retrogressive variance request which, if approved, would seriously affect the safety of residents using the community gem known as the Hart Trail.

  
John and Nerina Robson

May 13, 2008

City of Winnipeg,  
Attention: Assiniboine Community Appeals Committee  
510 Main St.  
Winnipeg, Mb.

Re: Appeal against DAV 08-103387C

To: Whom it may concern:

On March 26, 2008 we sent the following letter to the City Planning Division:

“Re: Application for variance: 0 Ridgewood St. – lane crossing Hart Trail”

Please be advised that we are the owners of a home on 842 Haney St. which is located very close to Ridgewood Ave. and the Hart Trail.

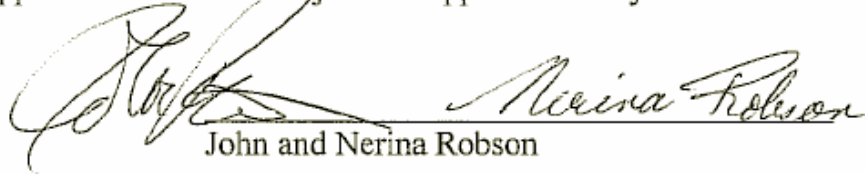
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In conclusion, we urge officials at all levels to reject this retrogressive variance request which, if approved, would seriously affect the safety of residents using the community gem known as the Hart Trail.”



We now have received notice that the Applicants who had their variance request denied, have appealed this decision. We respect their democratic right to do so. However, in that **no** support for the applicants’ variance request was received and in that we are aware of **no** further valid argument being put forward by them to support their appeal, we would be appalled if this appeal were upheld. If anything, community support for maintaining the safety and beauty of the Harte Trail has increased as our neighbors became aware of the application to run a private road over it. We urge the Appeals Committee to reject this appeal. Thank you.



John and Nerina Robson

CITY OF WINNIPEG                      MAY 14, 2008  
PLANNING, PROPERTY & DEVELOPMENT DEPT.

WE JERRY & PATRICIA KOZICKI OF  
WINNIPEG, MANITOBA OPPOSE THIS VARIANCE ORDER  
DAV 103387/2008 C. THE REASONS ARE THE SAME AS  
STATED ON OUR ORIGINAL LETTER OF OPPOSITION DURING  
THE FIRST APPLICATION, NOT A THING HAS CHANGED AS  
TO OUR CONCERN FOR THE PRESERVATION OF THE NATURAL  
HABITAT AND GREENSPACE AND ALSO IS THE SAFETY  
ISSUE, A VERY GREAT CONCERN AS THIS PROPOSED  
ACCESS WOULD CROSS THE HARTE TRAIL, A PART OF THE  
TRANS CANADA TRAIL WHICH IS USED BY PEOPLE OF ALL AGE  
GROUPS WHETHER IT BE WALKING ENJOYING NATURE,  
JOGGING OR BICYCLING. THIS TRAIL IS WELL USED  
AND APPRECIATED DURING ALL SEASONS OF THE YEAR.

JERRY KOZICKI   
PATRICIA KOZICKI 

DAV 08-103787C  
0 RIDGEWOOD AVENUE

May 14/08

Via Hawkes  
Sue Hawkes

We oppose the easement at 0 Ridgewood  
between Loxdale & Honey St.

*[Signature]* *[Signature]*

Murray Morien, B.Sc

Monique Wright  
City of Winnipeg

**Re: Development of #0 Ridgewood Ave.**

Dear Ms. Wright,

I would like to add my opposition to the development of #0 Ridgewood Ave. (south side, between Haney St. and Laxdal Road).

I believe that allowing a 4 acre parcel of land to be created (instead of 40 acres) sets a precedent that could potentially lead to the destruction of much of Charleswood's natural assets through more intensive development. I am also concerned about the impact this development may have on the Harte Trail and safety in general.

Respectfully yours,

A handwritten signature in black ink, appearing to be 'M. Morien', with a large, stylized flourish at the end.

Murray Morien, B.Sc

Gerald and Christina Kauenhofen

City Clerk  
C/O Appeal Committee  
510 Main Street  
Winnipeg, MB R3B 1B9

I Gerald Kauenhofen and I Christina Kauenhofen oppose the Variance Order  
DAV 103387/2008C.

Gerald Kauenhofen  


Christina Kauenhofen  




DAV 08-103387C  
0 RIDGEWOOD AVENUE

Winnipeg, R3R0X1,

13 May 2008.

Attention: Monique Wright  
City of Winnipeg

Ref: Harte Trail between Laxdal Road  
and Haney Street.

I understand that our application has been made to cut an access road from the property south of Ridgwood Avenue through the Harte Trail to link the property to Ridgwood Avenue. The granting of this application would set a precedent which would be used by other developers to cut through the trail.

The trail is used daily by residents of the area as a relaxing walk to the Assiniboine Forest or to the perimeter and beyond. Parents can take their children and pets on the trail with the knowledge that it is safe.

I note that there is a property on this section (#910 Ednhurst Road). Perhaps the access to this property could be extended to the proposed property.

and then provide access via <sup>②</sup> Elmhurst.  
This would satisfy both parties -  
the applicant gains access to his  
property and the Haste Trail is not  
breached.

We understand that the buyer knew  
that the site was land-locked before  
he made the purchase, but went  
ahead on the basis that he could  
finagle the access after he bought it

Peter W Jackson P. Eng.

DAV 08-103387C

ROSEMARY JACKSON

Attn. Monique Wright

City of Winnipeg

13<sup>th</sup> May 2008

To whom it may concern,

I believe a request has been made to cut across the Harte Trail between Laxdal Road and Honey Street to Ridgewood Ave, in Charleswood.

Unpredictable traffic going in and out of a driveway would be a hazard to people who walk, cycle and ski along the Harte Trail.

I know some roads cross the Harte Trail and these are well known and in place before the trail was established. Safety is my concern.

The Harte trail is a lovely, peaceful area that many of us enjoy through-out the year.

Yours. sincerely.

Rosemary Jackson.

ROSEMARY JACKSON

DAV 08-103387 C

We live at 765 Oakdale Dr. near the Harte Trail and oppose the development of the easement and property at O Ridgewood Avenue.

Like so many in this community I use the Harte Trail regularly and both my husband and I want to keep it safe in its natural state and beauty, surrounded on both sides with trees, shrubs and plants that are native to Manitoba. This trail is also designated as part of the Trans Canada Trail.

It's so inspiring to meet walkers, runners, and dog walkers who always say "Good morning" or "Hello".

At the O Ridgewood Ave. section of the Harte Trail this end merges gently toward the trail from Assiniboine Forest and the trail from Fort Whyte Alive.

Visitors and new residents are so impressed with nature on this trail from nesting and singing birds in the trees, and occasional animals like rabbits and squirrels scampering across the pathway.

We are so lucky, let's keep our trail this way to enjoy and promote healthful exercise in the midst of natural surroundings.

EM Brette

Sincerely  
Nona Brette

Exhibit "X" referred to in File DAV 103387A/2008C

May 6, 2008

Re: Notice of Appeal DAV 08-103387C

We the undersigned do not wish to allow an easement for a private driveway (0 Ridgewood Avenue) crossing over the Harte Trail (which is part of the Trans Canada Trail). The safety of walkers and bikers and the environmental impact to the trail are our utmost concerns. We strongly encourage the appeal committee to deny this appeal.

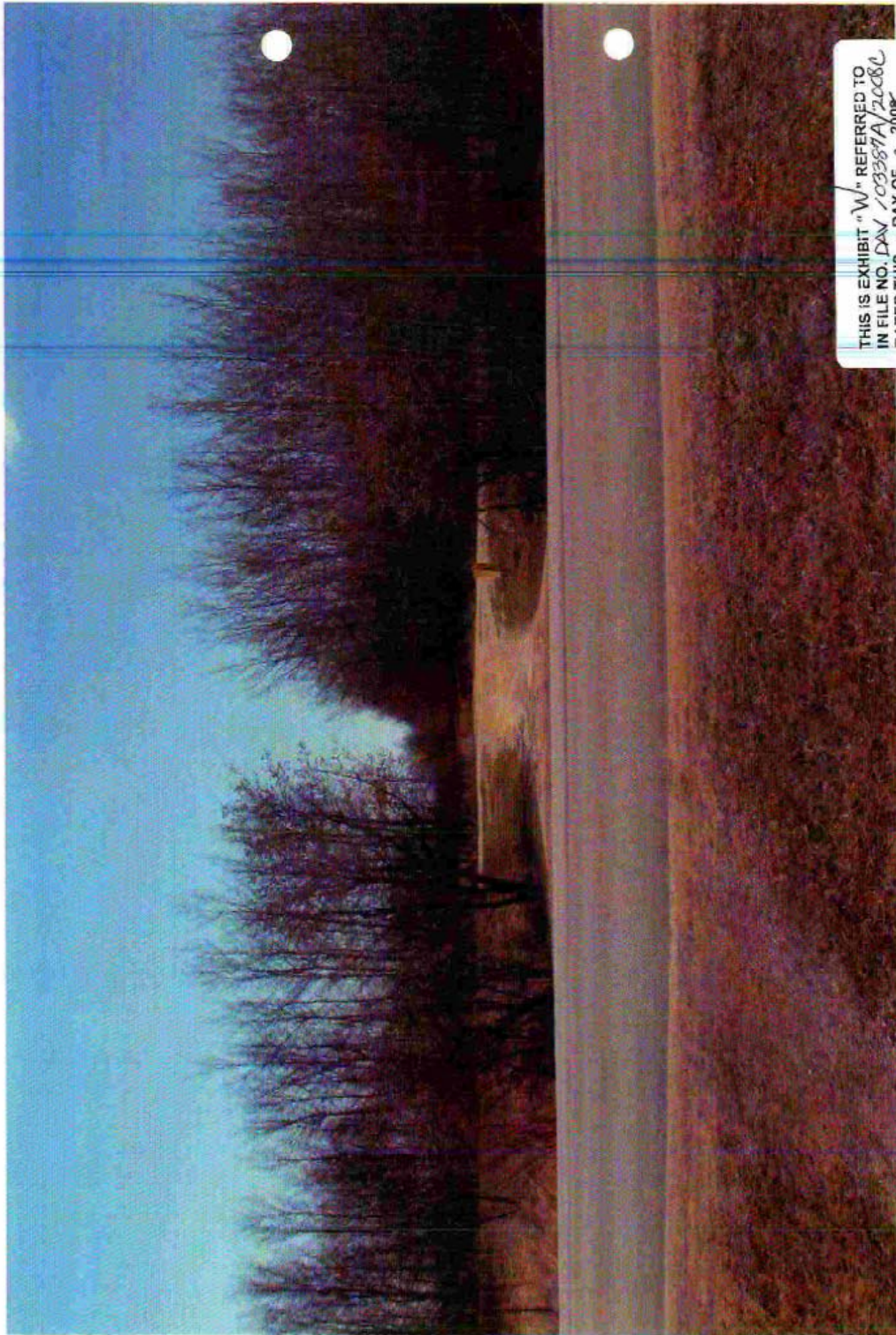
NAME	ADDRESS
L. Lovidge	45 Brisbane Ave.
J. Wilken	2498 Pinewood Dr.
S. Lovridge	45 Brisbane Ave.
R. LaBorkson	2498 PINEWOOD DR.
J. Harten	40 Parkside M.
Robert	30 Chiswell Cove
M. White	219 Oak St.
B. Kowacki	342 Eldridge Ave.
Pat Peter	646 Elmhurst Rd.
David Mathews	837 Laxdal
C. Klein	531 Bannock St.
Melody Wood	4925 Roblin Blvd
Kim Hasselruis	178 McQuaker Drive
Maxine Hasselruis	178 McQuaker Dr.
R. Godkin	71 Alenbrook Bay
S. Godkin	71 Alenbrook Bay
M. Oetting	75 Alenbrook Bay
Mary Young	731 Fairmont Rd
Wayne Young	731 FAIRMONT RD

THIS IS EXHIBIT "X" REFERRED TO  
IN FILE NO. DAV 103387A/2008C  
DATED THIS DAY OF 2008

*M. Oetting*  
CLERK



Exhibit "W" referred to in File DAV 103387A/2008C



THIS IS EXHIBIT "W" REFERRED TO  
IN FILE NO. DAV 103387A/2008C  
DATED THIS 15 DAY OF July 2008  
*[Signature]*  
CLERK



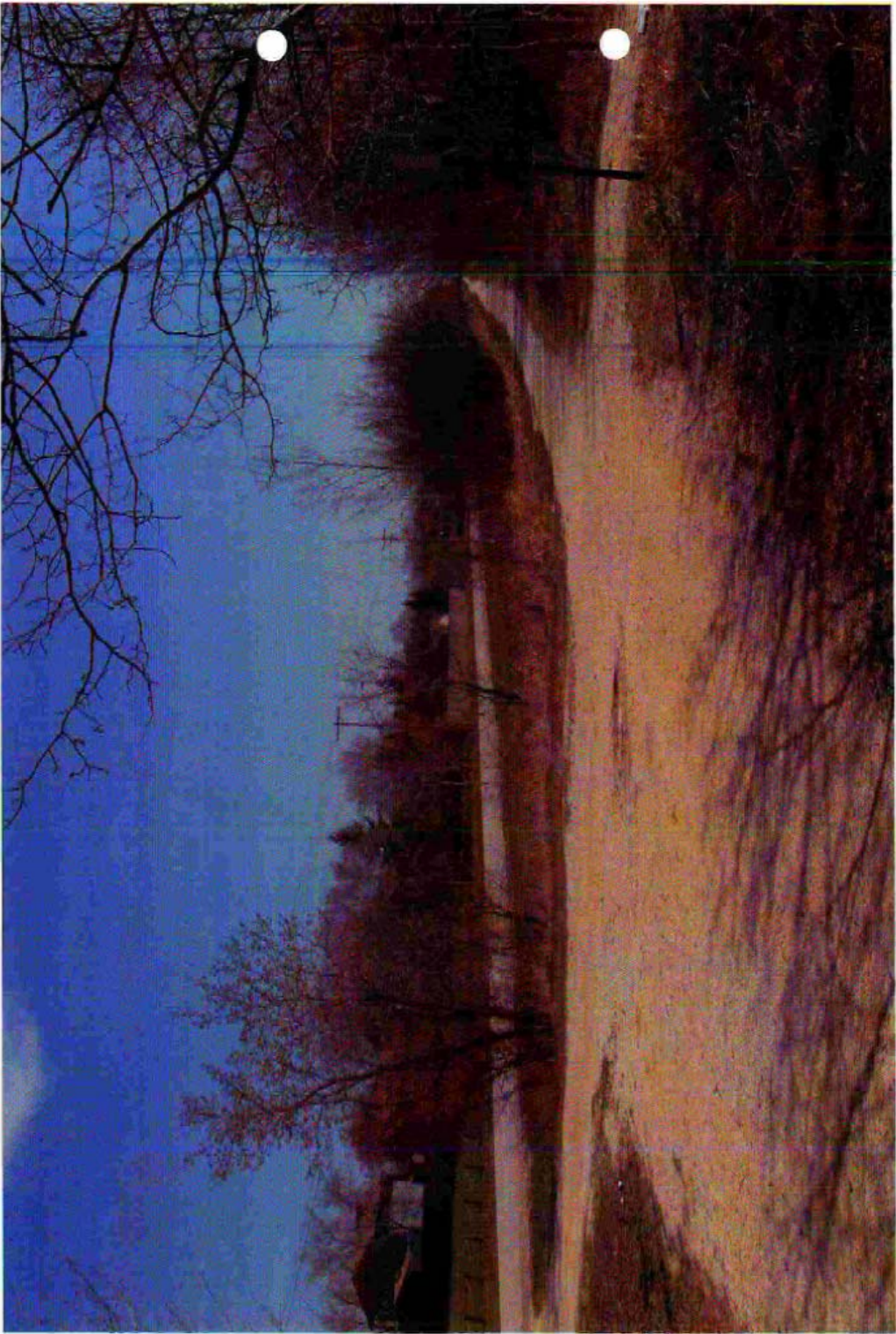








Exhibit "V" referred to in File DAV 103387A/2008C

**From:** Ken Glitnak  
**Sent:** Wednesday, May 14, 2008 5:55 PM  
**To:** Wright, Monique  
**Subject:** Appeal#08-103387C

Monique Wright, We would like to support the Friends of the Harte Trail and oppose any development that would compromise the integrity and safety of the children , families and seniors that use and enjoy this area . Sincerly , Bill & Lovey Glitnak

Exhibit "U" referred to in File DAV 103387A/2008C

May 14, 2008

Monique Wright

City Of Winnipeg, Clerk of the Appeal Committee  
510 Main Street,  
Winnipeg Manitoba R3B 1B9

Re: Notice of Appeal DAV 08-103387C

Dear Sir or Madam:

I am apposed to the easement request for 0 Ridgewood on the grounds of safety and liability issues.

I am also concerned that this could create damage to the Harte Trail itself.

Having served on the Harte Trail Executive I am well aware of the extreme work needed to preserve this green space and to insure the safety to the membership and community of Charleswood.

It is for these reasons I feel it is necessary to set a precedent for future similar requests.

Sincerely,



Sandie D'Amico

Exhibit "T" referred to in File DAV 103387A/2008C

May 13, 2008

Monique Wright  
Clerk of the Appeals Committee  
Council Building  
510 Main Street  
Winnipeg, Manitoba  
R3B 1B9

Dear Ms. Wright

RE: NOTICE OF APPEAL VARIANCE – 0 RIDGEWOOD AVE. FILE # 103387-2008C

I would like to voice my concerns with the above appeal. I am against the variance that this party is applying for.

I do not wish to have in any way development such as a drive way across the Harte Trail located in Charleswood. I feel that if the City of Winnipeg is allowed to let one person make a drive way into a property then it will set a vary dangerous precedence for the uniqueness of this wonderful trail.

Thank you for allowing me to express my concerns and please do not allow this zoning variance to happen.

Yours Truly,

Ian Greaves

Exhibit "S" referred to in File DAV 103387A/2008C

**From:** Gord McColm

**Sent:** Wednesday, May 14, 2008 9:20 AM

**To:** Wright, Monique

**Subject:** appeal #DAV 08-103387C in regards to "o ridgewood"

I object to this easement application appeal for the following reasons;

1. The Harte Trail is presently being processed into the status of "Parkland" under the city of Winnipeg Act –thus, when approved it will require a two third majority of City Council to allow for any changes for the use of the land rather than parkland types of uses eg walking, running, jogging etc. I do not think this requirement can be met by council with all the interest in trail development currently going on in the city.

2. The city of Winnipeg, if it approves of this easement, might / would put itself in a position of liability, if an accident occurs to users of the trail who are hit by someone driving a vehicle across the trail.

3. This could lead to damage to the trail by snow removing and grading machines.

Thank you

Gordon McColm

Exhibit "R" referred to in File DAV 103387A/2008C

---

**From:** Pat & Tom  
**Sent:** Wednesday, May 14, 2008 8:55 AM  
**To:** Wright, Monique  
**Subject:** o Ridgewood

As a regular user of the Harte Trail I would like to see it kept just as it is. Any driveway crossing the trail would be dangerous for the many people, young and old, who use the trail winter and summer. It's great to have somewhere to walk without being bothered by traffic and to be able to enjoy nature. In the summer especially you can see many flowers and birds along the trail that you don't see everywhere. This is bound to be affected if construction is allowed to come too near to the trail.

Pat Brooks

Exhibit "Q" referred to in File DAV 103387A/2008C

**From:** Brian Armstrong  
**Sent:** Tuesday, May 13, 2008 2:03 PM  
**To:** Wright, Monique  
**Subject:** DAV 08-103387C "0 Ridgewood")

May 13, 2008

Dear Monique ,

Hello, my name is Brian Armstrong. This letter is to state my opposition to the granting of permission for a road/drive way to cross the Harte Trail. (Appeal# DAV 08-103387C in regards to "o Ridgewood")

The trail is protected by the City of Winnipeg and is cared for by the members of The Friends of the Harte Trail. My objections stem from:

The safety of the people who walk, run and cycle on the trail.

The damage that will be done to the trail and the surroundings of the trail.

The precedent that will be set for others in the future to seek a crossing.

Please record my objection as I am unable to attend the meeting on May 15, 2008.

Thank you,

Brian Armstrong

Exhibit "P" referred to in File DAV 103387A/2008C

**From:** Ken Glitnak  
**Sent:** Tuesday, May 13, 2008 2:22 PM  
**To:** Wright, Monique  
**Cc:**  
**Subject:** Appeal # 08-103387C

Dear Monique Wright, Clerk of Appeal Committee. Please accept my opposition to" any" disturbance of the Harte Trail. This is a gem that needs to be left alone. The health benefits of walking and biking this trail (x-country skiing ,etc.in winter ) in a safe natural setting is enjoyed by all families of all income levels. Sincerly , Ken Glitnak

Exhibit "O" referred to in File DAV 103387A/2008C

## MANITOBA RECREATIONAL TRAILS ASSOCIATION, INC.

1007 Century Street, Winnipeg, MB R3H 0W4, Ph: (204) 786-2688 Fax: (204) 945-1365 Email: [mrta@mts.net](mailto:mrta@mts.net)

Monday, May 12, 2008

City Clerk's Office  
Planning Property and Development  
Unit 15- 30 Fort St.  
Winnipeg, MB  
R3C 4X7

Re: Notice of Appeal- DAV103387C Assiniboia Community

Dear Sir/Madam,

The Manitoba Recreational Trails Association would like to submit this letter of support for the Harte Trail Association and state our objection to permitting an easement over the trail.

The Harte Trail is an integral part of the Trans Canada Trail route through Winnipeg. Volunteers have spent countless hours and a considerable amount of money developing this trail for citizens of Winnipeg to use.

Each additional crossing poses a safety concern to trail users. Walkers and cyclists, especially young children would have to stop and check for cars at a spot where they previously were not required to do so. Providing an easement in one location sets a dangerous precedent for future request in other locations, which could lead to a very fragmented trail. In addition vehicular traffic affects the wear and tear of the trail surface. As such, the Manitoba Recreational Trails Association and the Trans Canada Trail can not support the granting of an easement to cross the trail.

Regards,



Elisabeth Ostrop  
Manitoba Recreational Trails Association

"REPRESENTATIVE FOR THE DEVELOPMENT



OF THE TRANS CANADA TRAIL IN MANITOBA"

The Manitoba Recreational Trails Association, Inc., is a charitable organization whose mission is to provide the support, knowledge, technology and resources necessary to promote the construction and use of recreational trails throughout Manitoba, thereby improving the economy, the environment, and human well-being.



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Elisabeth Ostrop



Exhibit "N" referred to in File DAV 103387A/2008C

## SUPPLEMENTARY REPORT

**DATE:** May 7, 2008  
**FILE:** DAV 08-103387/C  
**RELATED FILES:**  
**COMMUNITY:** Assiniboia Community  
**NEIGHBOURHOOD #:** 2.649  
**SUBJECT:** To vary the "A" district regulations of Zoning By-Law No. 6400/94 for the establishment of a buildable lot to permit as follows:  
a) no frontage on an improved street (access is proposed by way of a potential easement over City owned land);  
b) a lot area of 4 acres (1.62 hectares) instead of 40 acres (16.19 hectares);  
c) a lot width of 216.9 feet (66.11 metres) instead of 300 feet (91.44 metres).

**LOCATION:** Ridgewood AVE  
**LEGAL DESCRIPTION:** LOT 3 PLAN 19965 28/36 ST C

**APPLICANT:** DEREK WALKER  
82 WILLIAM MARSHALL WAY  
WINNIPEG MB R3R 3T4

**RECOMMENDATION:** Denial

**RE: Lombard North Group Appeal Submission April 16, 2008**

The Planning and Land Use Division wishes to respond to the issues identified in the appeal submission by the Lombard North Group (1884) Ltd.

**1. a) Land locked Site:**

Lombard North contends that the subject site is not land locked as it is fronting on a parcel of land acquired for Future Street widening, highlighted in *Plan Winnipeg 2020* Policy Plate 'B'.

The City of Winnipeg's original intention when acquiring portions of CNR Cabot right of way, (the Harte Trail) beginning over 20 years ago, was to provide a major east-west arterial roadway for the South Charleswood area.

However, since that time the right of way's popularity as a recreational trail, in concert with its strong community support has encouraged the City to change their vision for these lands. This corridor has been designated as the Harte Trail and is part of Winnipeg's Active Transportation Network. The Harte Trail has since been incorporated in the Trans Canada Trail System.

Enclosed is Minute 247 - 1999 from the Standing Policy Committee on Public Works, April 9, 1999 documenting this policy change declaring the Harte Trail be designated as public open space. The Harte Trail will **not** be used for future street widening.

*III. That the CN Harte/Cabot Subdivision be declared surplus for transportation purposes and designated as public open space to be retained in perpetuity by the City of Winnipeg.*

*Carried*

**b) 15-foot Access Easement Claim:**

The City of Winnipeg's Legal Services has advised that this is a **claim only** for an easement by prescription (long use). A caveat based on the claim was registered by the previous owner in the Winnipeg Land Titles Office in 2000 over the land known as the Harte Trail. In the City's opinion, this claim of easement has no validity.

Ultimately, it would be up to the court to decide whether the claim for a prescriptive easement for access across the City land is valid or not. The use must be proven to have been "*open, uninterrupted, peaceful and with the knowledge of all owners without objection*" for a period of at least 20 years.

The dwelling on the subject site was demolished in 2002. The site has been vacant and unused for the past 6 years.

That being said, the issue of legal easement is moot in that the subject site has no development rights as it is both not a lot of record and land locked as per our Zoning By-law.

**2. a) Creation of the Lot**

The City of Winnipeg's Zoning and Permits Branch has established that this lot was once held under two (2) titles dated 1945 and 1953. At that point it complied with the Zoning By-law in effect as the lot was 300 feet wide and a minimum 5 acres.

The western portion, (the subject site) was split off through Land Titles and was sold in 1959. These lots no longer met the bulk requirements of the By-law as each lot was no longer 300 feet wide and a minimum 5 acres and the 2 lots together did not form a contiguous holding.

Therefore the subject site was not a 'Lot of Record' at the time of the passing of By-law 6400/94 and has no buildable rights. To establish the lot as a 'buildable lot' the applicant was required to apply for lot width and lot area variances in addition to relief from no frontage on an improved street.

There are at least 23 vacant parcels of land adjacent to the southern edge of the 5.5 kilometre span of the Harte Trail between the Perimeter Highway to the west and the Assiniboine Forest to the east. Similar requests for access can be anticipated if this variance was to be approved, further exaggerating safety conflicts within the Harte Trail as well as a detrimental impact on our emergency services and their ability to locate properties without appropriate public road access, addressing, lighting, visible house numbers and the like.

It should also be noted that the applicant telephoned the district planner to discuss the development potential of the property on September 18, 2007 prior to their purchase. The applicant was informed at that time that this parcel was land locked and that access across the Harte Trail would not be supported by the Public Service.

This Supplemental Report Submitted by:  
Planning, Property and Development Department  
Planning and Land Use Division

Report Prepared by: James Veitch,  
PPD File # DAV 07-147838/C  
" referred to in File DAV 103387A/2008C

**Minutes - Standing Policy Committee on Public Works - April 9, 1999**

247. From the Director of Public Works  
Report 99/03/26

**City Jurisdiction over the “Harte  
Trail”****File PR-7 (Vol. 16)**

Recommending:

- I. That the need for an east-west arterial street in south Charleswood be confirmed.
- II. That, if the City-owned former CN Harte/Cabot Subdivision is to be designated for use as the “Harte Trail” component of a possible link to the TransCanada Trail, property be acquired as and when it becomes available or through the subdivision process for the realigned version of the Charleswood Parkway referred to as Alternative B on Figure 99-11.

*Moved by Councillor Angus,*

*That the recommendations be concurred in as amended, namely:*

- I. That the need for an east-west arterial street in south Charleswood be confirmed.*
- II. That, if the City-owned former CN Harte/Cabot Subdivision is to be designated for use as the “Harte Trail” component of a possible link to the TransCanada Trail, property be acquired as and when it becomes available or through the subdivision process for the realigned version of the Charleswood Parkway referred to as Alternative B on Figure 99-11.*
- III. That the CN Harte/Cabot Subdivision be declared surplus for transportation purposes and designated as public open space to be retained in perpetuity by the City of Winnipeg.*

*Carried*

Exhibit "M" referred to in File DAV 103387A/2008C

**From:** Russell Rosen

**Sent:** Sunday, May 11, 2008 5:24 PM

**To:** Wright, Monique

**Subject:** Appeal# DAV 08-103387C in regards to "0 Ridgewood"

We oppose the subject appeal for the following reasons:

- The City had previously advised the owner against purchasing the land because it was landlocked.
- Allowing an approach to the property will set a precedent.

Doreen and Russell Rosen

Exhibit "L" referred to in File DAV 103387A/2008C

# WINNIPEG TRAILS ASSOCIATION

www.mrta.mb.ca/wta



May 8, 2008

ATTN: Monique Wright  
Clerk of the Appeals Committee  
Council Building  
510 Main St, Winnipeg, MB R3B 1B9

**Re: DAV 08-103387C**

Dear Ms Wright,

Please register the Winnipeg Trails Association in opposition to the appeal by applicant Derek Walker. We are in agreement with the Winnipeg Public Service recommendation to reject the application.

Specifically, we are very concerned about the safety issues related to the request for an easement over City owned land. The city owned land is the Harte Trail, one of Winnipeg's premier trails.

The Harte Trail is:

- Extensively used year around for commuting to and from work / shopping in the area
- Extensively used year around for recreational and healthy living purposes (walkers, joggers, bikers)
- A prime destination for dog walkers
- Undergoing environmental forestation and habitat expansion by the City's Naturalists Services branch
- A key corridor for nature, deer, birds, etc.
- Winnipeg's first rail to trail conversion and one of Winnipeg's oldest trails
- Part of the National Trans Canada Trail
- Under the stewardship and care of a long established community organization, the Friends of the Harte Trail
- A key corridor linking southwest Winnipeg to major destinations (Assiniboine Forest / Park, FortWhyte Alive and Kenaston Shopping Centre (2008)

We are concerned about the safety issues to users of the Harte Trail if vehicles were to cross at an increased rate and we are very concerned about the precedent this would set for other trails on City owned land.

Please contact myself or Janice Lukes at 952-4222 if you have any questions or if I can be of further assistance.

Sincerely,

Paul Jordan,  
Chair Winnipeg Trails Association

C Councillor Bill Clement  
Friends of the Harte Trail

The Winnipeg Trails Association  
201 One Forks Market Road  
Winnipeg, MB R3C 4L9



Exhibit "K" referred to in File DAV 103387A/2008C

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**From:** thamson  
**Sent:** Wednesday, May 07, 2008 12:40 PM  
**To:** Wright, Monique  
**Subject:** Appeal# DAV 08-103387C in regards to "o Ridgewood"

To whom it may concern.

This e-mail is express concern over the proposed entrance to this lot crossing the Harte Trail and to **voice our objections** to such an entrance.

Tom Hamson  
Vera Hamson

Exhibit "J" referred to in File DAV 103387A/2008C

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**From:** Peter and Valerie  
**Sent:** Wednesday, May 07, 2008 12:47 PM  
**To:** Wright, Monique  
**Subject:** Appeal# DAV 08-103387C in regards to "0 Ridgewood"

I am sending my request not to allow the above easement on Ridgewood. This cuts through the Canada Trail, the buyers knew this before they purchased it.

Thank you

Valerie Ostash

Exhibit "I" referred to in File DAV 103387A/2008C



March 20, 2008

Re: 0 Ridgewood Easement

I am a board member of The Friends of the Harte Trail, and the landscaper who was hired to repair, re-surface and improve the trail over the last 5 years. I have spent many hours working on the Trail, as well as walking and running its length.

The request to allow access over the Trail to a new house on the south side of the Trail would, in my opinion, create many problems for users of the Trail as well as travelers along Ridgewood. My experience has been that there are a lot of young children, and seniors, as well as many people walking dogs and riding bicycles, regularly accessing the Trail. Additional vehicle traffic cutting over the Trail would cause delays for the users, and would create unsafe conditions.

While there are already many road crossings along the trail, these are well marked and have fairly open sight lines, which reduce the chance for an accident between people on the trail and traffic on the roads. A significant amount of our work has been to create safer, user-friendly crossings at each of the roadway crossings. A driveway, cut across the trail and through surrounding trees and bush, would have severely limited sightlines and, therefore, would create a definite hazard to all Harte Trail users, as well as a liability issue for users of the said driveway.

In addition, traffic across the Trail, which is made out of approximately a 4 inch base of crushed limestone, would result in ongoing damage to the Trail.

Please call me if there are any questions regarding my letter.

Yours truly'

Bruce Johnson

Exhibit "G" referred to in File DAV 103387A/2008C

**DATE:** March 19, 2008  
**FILE:** **DAV 08-103387/C**  
**RELATED FILES:**  
**COMMUNITY:** Assiniboia Community  
**NEIGHBOURHOOD #:** 2.649  
**SUBJECT:** To vary the "A" district regulations of Zoning By-Law No. 6400/94 for the establishment of a buildable lot to permit as follows:  
a) no frontage on an improved street (access is proposed by way of a potential easement over City owned land);  
b) a lot area of 4 acres (1.62 hectares) instead of 40 acres (16.19 hectares);  
c) a lot width of 216.9 feet (66.11 metres) instead of 300 feet (91.44 metres).

**LOCATION:** 0 Ridgewood AVE  
**LEGAL DESCRIPTION:** LOT 3 PLAN 19965 28/36 ST C

**APPLICANT:** DEREK WALKER  
82 WILLIAM MARSHALL WAY  
WINNIPEG MB R3R 3T4

**OWNER:**  
**RECOMMENDATION:** **Denial**

**CRITERIA FOR APPROVAL:**

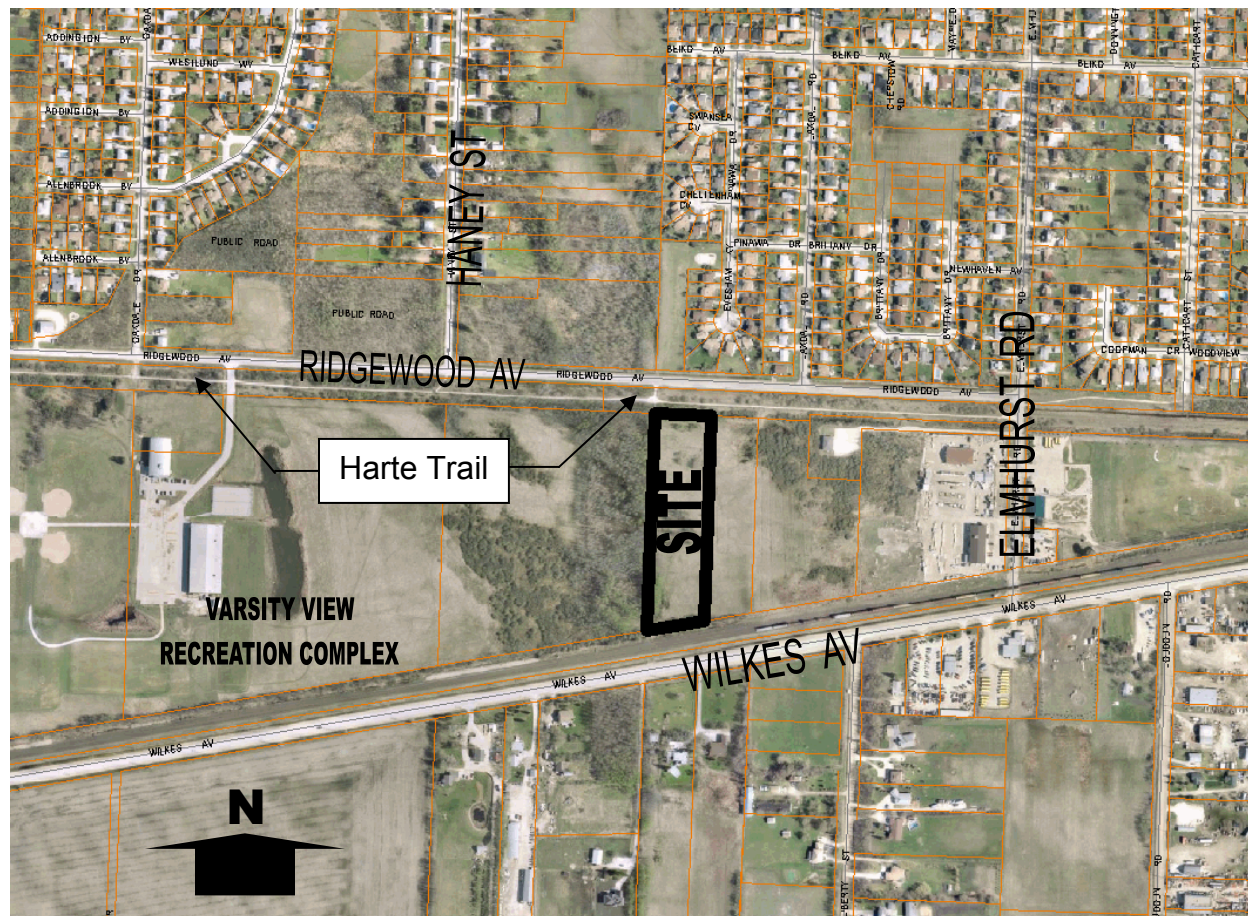
Pursuant to Section 247(3) of the City of Winnipeg Charter, a Zoning Variance application can be approved with necessary conditions if the proposed development:

- (a) is consistent with Plan Winnipeg and any applicable secondary plan;
- (b) does not create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) is the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is compatible with the area in which the property to be affected is situated.

**SITE DESCRIPTION**

Existing Land Use and Zoning

The approximately 4-acre subject site is vacant and zoned ‘A’ Agricultural. The property is located in the Ridgewood South Neighbourhood of the Assiniboia Community



**Figure 1: Subject Site (Aerial photo flown 2005)**

Surrounding Land Use and Zoning

- North: The Harte Trail then Ridgewood Avenue then ‘R1-M’ and ‘R1-L’ Single Family Residential
- South: CNR main line then Wilkes Avenue
- East: ‘A’ Agricultural (vacant land – part of the original holding) then a vacant church with access off Elmhurst Road
- West: ‘A’ Agricultural (vacant land)

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The applicant wishes to build a single family home on the subject site, however the site is landlocked with no frontage on a public street, is not a lot of record and thus unbuildable. Therefore variances are required to establish the lot and allow its development.





## **BACKGROUND**

Our research indicates that this lot was part of a larger holding, (which included the site to the east) was held under two titles up to 1959. The subject lot was created through the Manitoba Land Titles Office and sold without the City of Winnipeg's input. There was a house on the subject site built in 1913 that was destroyed by fire and demolished in 2002.

*A prescriptive easement* was caveated on the title between the previous owner of the lot and the Canadian National Railway that allowed access across the former CNR Cabot line, (now the City owned Harte Trail). Courts allowing access based on a period of constant and uninterrupted use typically grant prescriptive easements. It is assumed that the courts granted this easement between the CNR and the previous owner as the existing house used the access since 1913. However, it is our legal department's opinion that this easement is now null and void as it was between previous owners and it has not been maintained for over 6 years. The Manager of the City of Winnipeg Real Estate Branch has refused to sign a new easement agreement allowing access over the Harte Trail.

## **ANALYSIS AND ISSUES**

There are four key issues that restrict the development of the subject site;

- 1) The site is a landlocked parcel
- 2) The site does not conform to 'A' Agricultural bulk zone requirements
- 3) Access over the Harte Trail
- 4) Future orderly development of the area

Prior to their purchase of the subject site, the applicant contacted the Planning and Land Use Division as well as the Zoning and Permits Branch. The applicant was informed that the site had no development rights as it was a land locked parcel and not a lot of record. We further indicated that we consistently did not support variances to allow development on lots that do not have frontage on a public street and in this specific case we would not support the crossing of the Harte Trail.

### **Landlocked Parcel**

The Planning and Land Use Division does not support this variance. The subject site is landlocked by the Harte Trail to the north, the CNR Mainline to the south and private properties to the east and west. The practice of developing landlocked parcels goes against policies in Plan Winnipeg, Secondary Plans and the Zoning By-law. To that point Council has eliminated the opportunity to vary this clause in the new Zoning By-law.

As discussed on similar previous applications several City of Winnipeg Departments have concerns that emergency situations such as fire would not only jeopardize the proposed residence and the inhabitants but also the neighbouring properties in the case of fire spread due to lack of ability to effectively respond and control the situation.

**‘A’ Agricultural Bulk Zone Requirements**

The site was created through a transfer of title at the Winnipeg Land Titles Office and as such was not required to conform to the Zoning By-law having jurisdiction. One of the steps required to make this a lot of record is to vary the ‘A’ Agricultural bulk zone requirements allowing a 4-acre lot size instead of 40 and 216.0 feet of frontage instead of 300.

**Harte Trail**

Compounding the fact that the site is landlocked is that the only potential future access is over the Harte Trail. The City acquired the Harte Trail over the past decade and has now become a 5.5 kilometre recreation corridor which has been designated part of the Trans Canada Trail System. Currently there are 5 crossings of the Harte Trail by public right of ways at Elmhurst Road, Fairmont Road, Harstone Road, Community Row and Charleswood Road. There is one private crossing into the Varsity View Recreation Complex. The City has endeavoured to limit the amount of crossings and even reduce those crossings by relocating the Varsity View access to Fairmont Road, (see Figure 2 below). If the site is granted development rights, they will then attempt to acquire access to the site over the Harte Trail which will create a potentially hazardous situation through the conflicting uses of automobile traffic with cyclists, joggers, walkers and skiers at a blind, uncontrolled crossing.

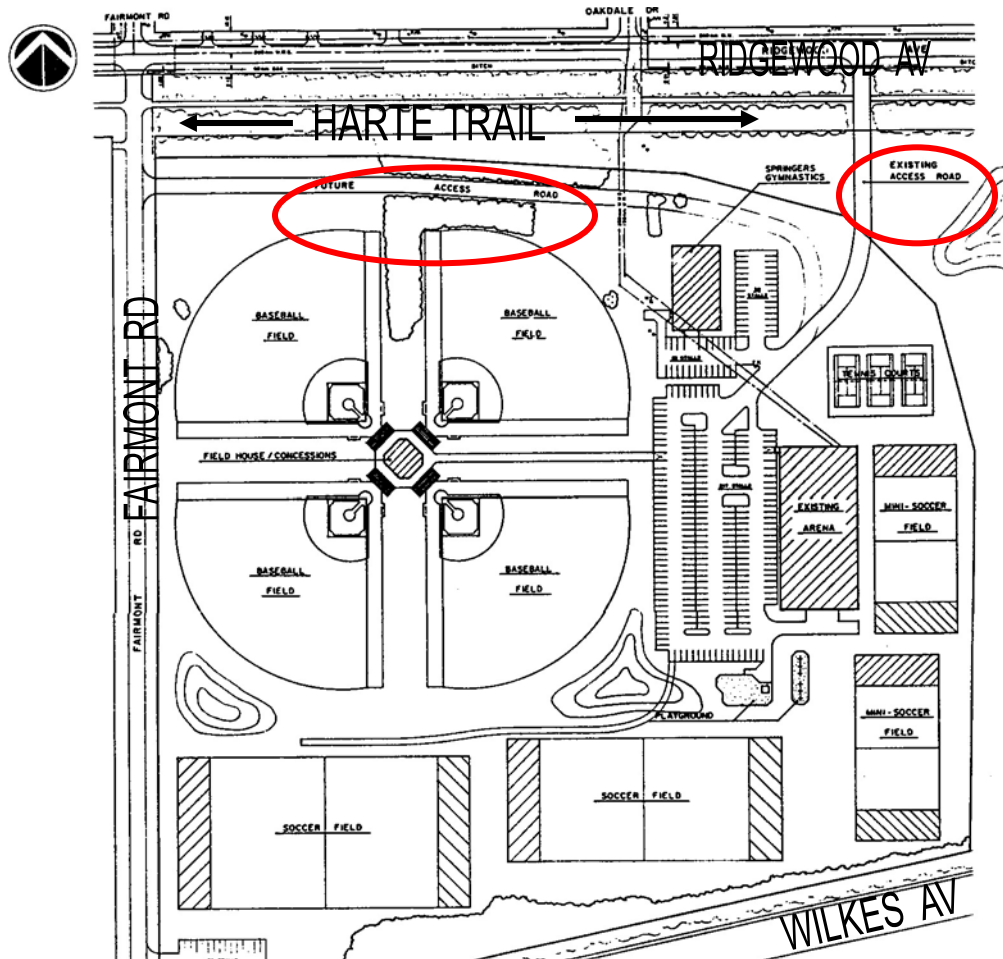


Figure 2: Varsity View Recreation Complex Concept Plan

**Future Orderly Development**

The City of Winnipeg is engaged in several studies that will guide the future development of the Ridgewood South Neighbourhood. Ongoing projects such as the Ridgewood South Secondary Plan, the Charleswood Do-Ability Study and the Charleswood Drainage Study, will help guide the orderly development of the area including the location of roads, sewer, water, drainage, pathways, residential, commercial and institutional uses.

The subject site falls within the study area boundaries of all of these projects, development of the site at this time will most likely have a negative impact on the future orderly development of the area. In our opinion, the subject site is an investment property, eventually there will be development opportunities for this immediate context once the current planning work is done, the neighbourhood has been consulted and Council supports and adopts a Secondary Plan for the area.

**REASONS FOR RECOMMENDATIONS**

In the context of Section 247(3), the Planning and Land Use Division recommends **denial** for the following reasons:

- (a) is **not** consistent with Plan Winnipeg and any applicable secondary plan;
- (b) **does** create a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) is **not** the minimum modification of a zoning-by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is **not** compatible with the area in which the property to be affected is situated.

This Report Submitted by:  
Planning, Property and Development Department  
Planning and Land Use Division

Report Prepared by: James Veitch  
PPD File # DAV 08-103387/C

Exhibit "F" referred to in File DAV 10338A/2008C



- LOT DESCRIPTION.
- LOT 3, PLAN 19965
- CIVIC ADDRESS
- 3610 RIDGEWOOD AVE.

This is exhibit "7" referred to in  
 File No. DAV 103387108C  
 dated March 2, 2008  
D. J. [Signature]  
 Secretary, Board of Adjustment

-> AN EASEMENT AGREEMENT EXISTS FOR CROSSING TRAIL.

- ZONING : A1
- ASSESSED : VR1

DEVELOPMENT EXAMINATION BRANCH	
THIS PLAN IS SUBMITTED FOR APPROVAL IN CONNECTION WITH <u>DAV 08-10338</u> /c	
SHEET #	<u>1</u> OF <u>1</u>
APPLICANT (SGD.)	<u>Duda</u>
DEV. EXAM.	<u>RP</u>
DATE	<u>Jan 16/08</u>

Exhibit "E" referred to in File DAV 10338A/2008C



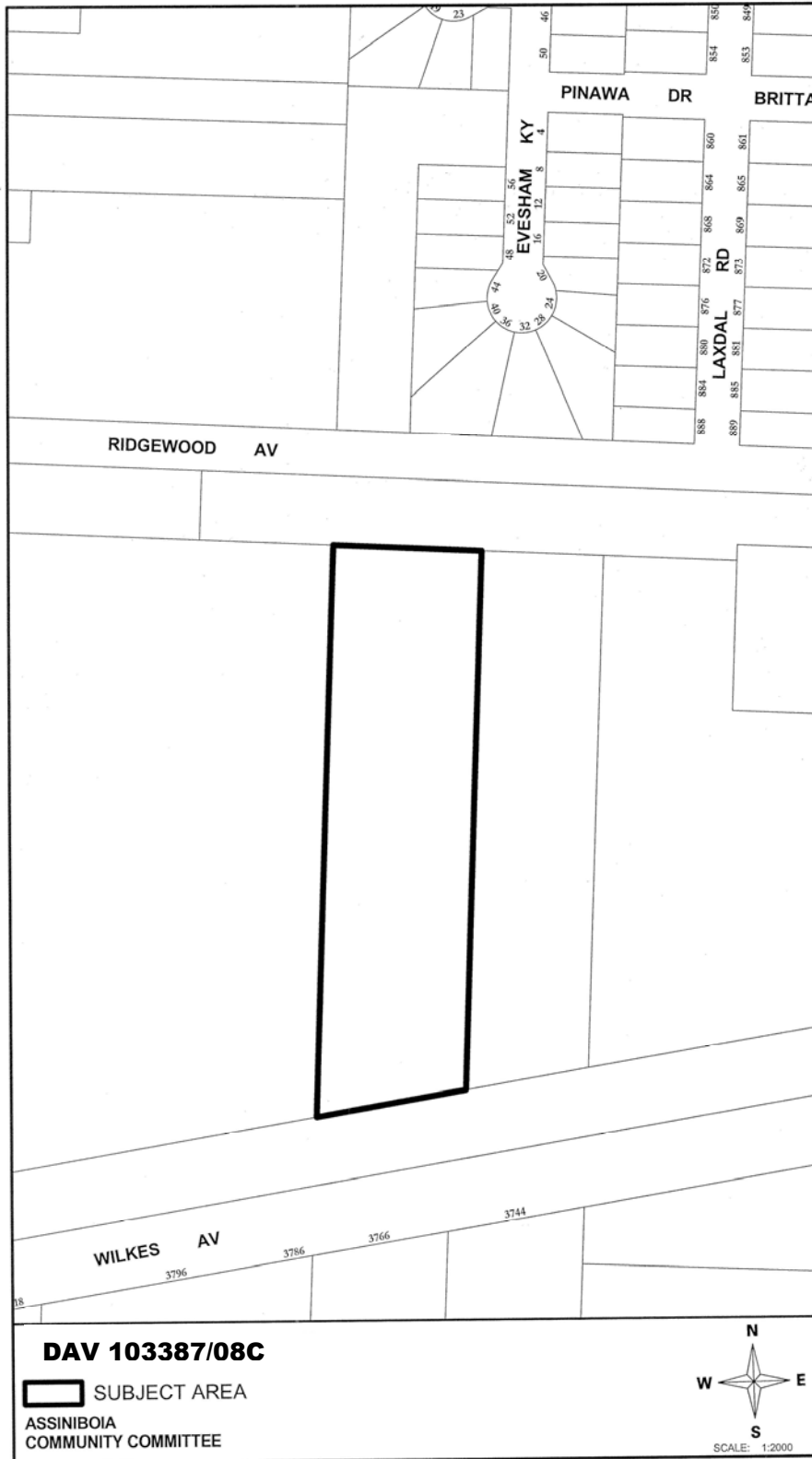
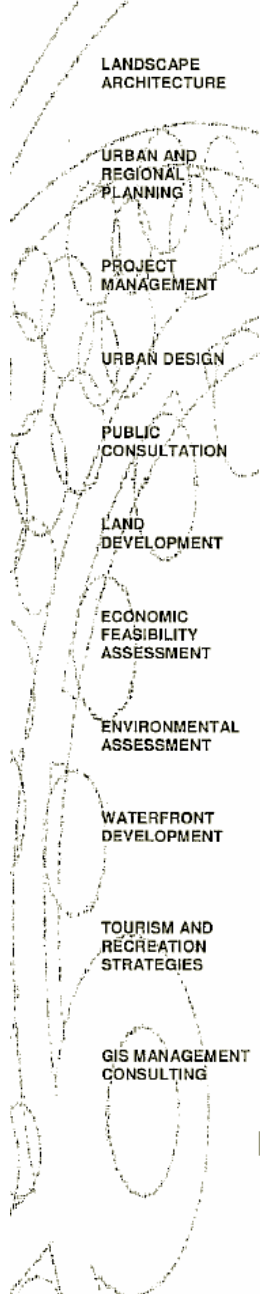


Exhibit "B" referred to in File DAV 103387A/2008C



**LOMBARD NORTH GROUP (1984) LTD.**  
PLANNERS AND LANDSCAPE ARCHITECTS



- a) The variance is consistent with Plan Winnipeg's designation of the subject lands as "Neighbourhood Area" which contemplates residential development for lands adjoining the planned Ridgewood Street corridor.
- b) The variance and establishment of a single family residence on the lot does not adversely affect the amenities, use safety and convenience of adjoining property and adjacent area, including an area separated from the property by a street or waterway. No objections were received from the adjoining property owners or single family residential area in the adjacent area. We acknowledge objections were received from the Winnipeg Trails Association, however with respect these objections are without merit as vehicle access to Ridgewood from the single family dwelling pose no safety risk crossing the existing trail presently on the city land than a driveway across a sidewalk anywhere in a city residential neighbourhood.
- c) The variance is the minimum modification of the zoning by-law to relieve the injurious effect of the by-law upon the applicant's property.
- d) The proposed single-family residential use is compatible with the area the property is located in which includes single-family land uses north of the site and the Varsity View Community Club west of the subject lands.

We request the Appeal Committee concur upon review of the information provided that the subject Variance complies with the statutory conditions of the City of Winnipeg Charter and agree to approve Variance DAV 103387/2008C.

Furthermore I wish to state it is my client's intent to cooperate with the City in the widening of the Ridgewood Avenue right of way and subject to agreement with the City release his encumbrance over the City Land acquired for the widening.

Yours truly,  
Lombard North Group

David Palubeski, FCIP  
President

attach

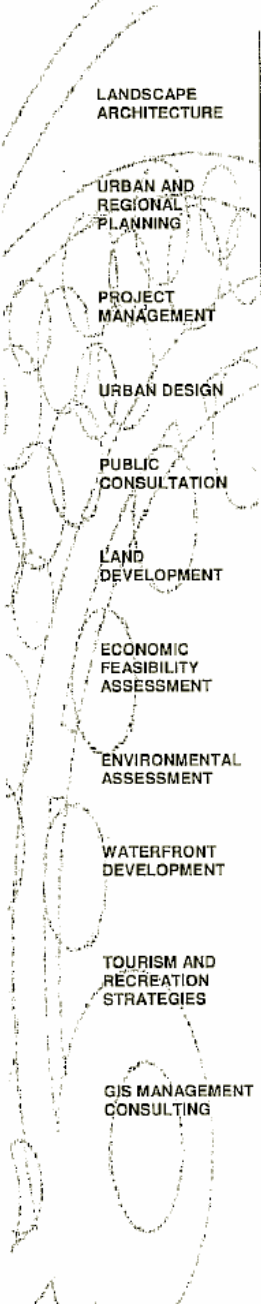
**SERVING COMMUNITIES, GOVERNMENT AND BUSINESS SINCE 1968**

505-93 LOMBARD AVE. WINNIPEG MANITOBA CANADA R3B 3B1  
TEL (204) 943 3896 FAX (204) 947 5696  
www.lombardnorth.com



# LOMBARD NORTH GROUP (1984) LTD.

PLANNERS AND LANDSCAPE ARCHITECTS



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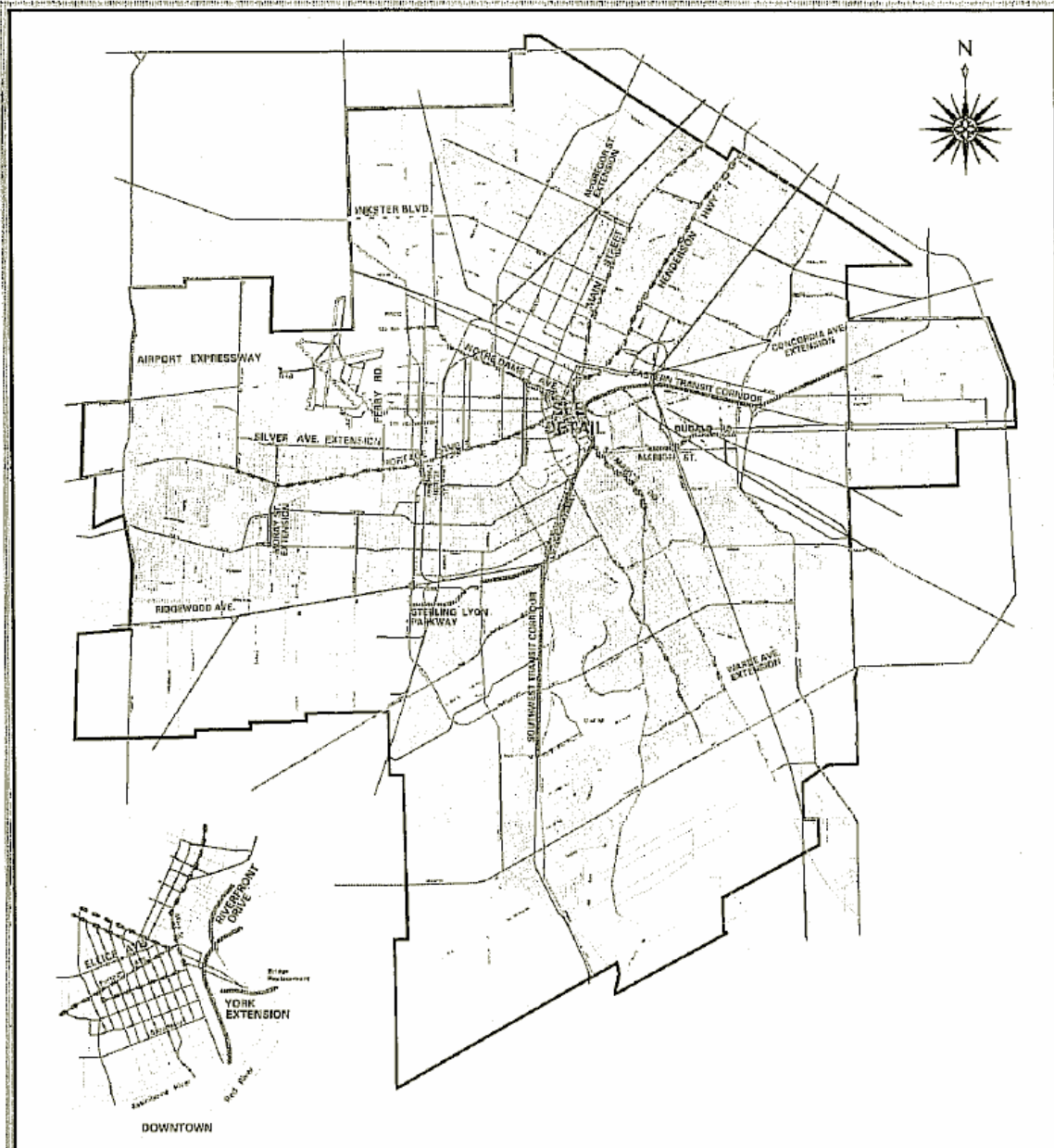
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David Palubeski, FCIP  
President

attach

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Policy Plate

**B**

TRANSPORTATION  
**PLAN WINNIPEG  
 2020 VISION**



Policy No. 3D-03, 3D-04

- EXISTING REGIONAL STREETS (for information only, not Designated by this Plan)
- RAPID TRANSIT WORKS TO 2020 (Bus-Only Roadway in a Dedicated Right-of-Way)
- ON-STREET TRANSIT WORKS TO 2020 (Transit Priority Measures (e.g. Diamond Lanes, Transit Priority Signals))
- MAJOR STREET ADDITIONS TO 2020
- MAJOR STREET WIDENINGS TO 2020
- RAILWAY GRADE SEPARATIONS
- DEVELOPMENT-RELATED STREET ADDITIONS (Time frame Indefinite)
- DEVELOPMENT-RELATED STREET WIDENINGS (Time frame Indefinite)
- EXISTING HIGHWAYS (Under Provincial Jurisdiction)
- CITY OF WINNIPEG BOUNDARY

**EFFECTIVE DATE:** December 12, 2001

This map is intended for information only. Its distribution should be confirmed by contacting The City of Winnipeg Planning, Property, and Development Department at: (204) 955-7731.



April 16, 2008

City of Winnipeg

To whom it may concern

Please be advised that I have retained David Palubeski and Lombard North Group as our planning advisors and have authorized Lombard North Group to file our appeal to the Board of Revision Denial of my variance application DAV 103387/2008C

Yours truly,



Derek Walker

Exhibit "A" referred to in File DAV 103387A/2008C



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**The City of Winnipeg  
VARIANCE ORDER  
BOARD OF ADJUSTMENT**

**DAV 103387/2008C**

Before: Board of Adjustment  
Mr. Bill Evans, Chairperson  
Mr. Ken Desrochers  
Mr. Mark Morgan

Hearing: March 26, 2008  
West Committee Room  
Council Building, 510 Main Street

Applicant: Derek Walker

Premises Affected: 0 Ridgewood Avenue (south side between Haney Street  
and Laxdal Road)

Legal Description: Lot 3 Plan 19965 28/36 ST C,  
hereinafter called "the land"

Property Zoned: "A" Agricultural District

Zoning Atlas Sheet: AF16 (LP)

Nature of Application: To vary the "A" Agricultural District regulations of The  
Winnipeg Zoning By-law No. 6400/94 for the  
establishment of a buildable lot to permit as follows:

1. no frontage on an improved street (access is by way  
of easement over City-owned land)
2. a lot area of 4 acres (1.62 hectares) instead of 40  
acres (16.19 hectares)
3. a lot width of 216.9 feet (66.11 metres) instead of  
300 feet (91.44 metres)

It is the opinion of the Board of Adjustment that this application does not meet the statutory criteria of The City of Winnipeg Charter, in that it:

- (a) is not consistent with Plan Winnipeg, and any applicable secondary plan;
- (b) creates a substantial adverse effect on the amenities, use, safety and convenience of the adjoining property and adjacent area, including an area separated from the property by a street or waterway;
- (c) is not the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property; and
- (d) is not compatible with the area in which the property to be affected is situated.

C.W. Charter Subsection 247(3)

ORDER:

The Board of Adjustment orders that the Application for a Variance File DAV 103387/2008C is rejected.

DATE OF ORDER: March 28, 2008

CERTIFIED BY:



---

Diane Timmins  
Secretary to the Board

HOW TO APPEAL

You may appeal against either the whole of this order or part(s) of it by filing a letter of appeal.

That letter must be submitted in writing, be signed by the appellant, show the printed name of the appellant, contain the mailing address of the appellant, contain the contact telephone number of the appellant, and

- (a) be addressed as set out below,
- (b) be received at that office not later than 4:30 p.m. on April 16, 2008  
[IF RECEIVED LATE YOUR APPEAL CANNOT BE HEARD.]
- (c) refer to Variance Order DAV 103387/2008C, give brief reasons for the appeal and must describe whether you appeal the whole order or only part(s) of it.



Any appeal letters not containing all of the above elements will be rejected by the City Clerk as invalid appeals and will not be heard at an appeal hearing.

You can attend the appeal hearing and speak on issues raised in someone else's appeal, but the appeal committee can only rule on issues raised in appeals filed. If you are not sure what others have appealed you should file your own appeal.

Address: City Clerk, City of Winnipeg  
c/o Appeal Committee  
510 Main Street  
Winnipeg, MB R3B 1B9  
Fax 947-3452  
Email [clk-appeals@winnipeg.ca](mailto:clk-appeals@winnipeg.ca)

THE FOLLOWING PERSONS MADE REPRESENTATIONS AND ARE ENTITLED TO APPEAL:

In Support:

Derek and Colleen Walker

In Opposition:

Angus and Nona Brotchie  
Brian Armstrong  
Lois Caron  
Claire Coleman  
Sandie D'Amico  
Joan Glover  
Ian B. Greaves  
Hilary Hanson, President, Friends of the Harte Trail  
Verna Hare  
Vic and Sue Hawkins  
Bruce Johnson  
Paul Jordan, Chair, Winnipeg Trails Association  
Jerry and Patricia Kozicki  
Ollie Oleski  
Elisabeth Ostrop  
J. Palmer  
David and Bonnie Pike  
Gary and Lorna Pryce  
John and Nerina Robson

Don Seymour  
Margaret and Wayne Young

For the City:

Ms A. Clark, Planner, Planning, Property and Development Department