Agenda - Council - May 24, 2006

Report – Executive Policy Committee – May 17, 2006

Item No. 5 Closing of the Public Lane east of Henderson Highway between McLeod and Oakland Avenues
File DAC 16/1999

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 17, 2006, the Executive Policy Committee concurred in the administrative recommendation and submits the following to Council:

1. That the proposed lane closing as shown on Misc. Plan No. 10687 be approved and that the land be declared surplus to the City's needs.

2. 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 No. 10687.

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

Report – Executive Policy Committee – May 17, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 17, 2006, the Executive Policy Committee concurred in the administrative recommendation and submitted the matter to Council.

RE: DAC 16/1999 – PROPOSED CLOSING OF THE PUBLIC LANE EAST OF HENDERSON HIGHWAY BETWEEN MCLEOD AND OAKLAND AVENUES

FOR SUBMISSION TO: The Executive Policy Committee

ORIGINAL REPORT SIGNED BY: Director, Planning, Property and Development Department

REPORT DATE: May 10, 2006

RECOMMENDATION:

1. That the proposed lane closing as shown on Misc. Plan No. 10687 be approved and that the land be declared surplus to the City's needs.

2. 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 No. 10687.

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

Report Summary

Key Issues:

The subject lane closing was initiated in 1999 because the residents at the apartment block on the south side the lane were concerned about an increase in traffic due to the planned development of a commercial site on the north side of the lane. The owner of the apartment block offered to purchase the lane.

The closing was approved by the East Kildonan-Transcona Community Committee on September 28, 1999.

On April 27, 2004, the Standing Policy Committee on Property and Development approved the terms of the sale of the lane.

The plan of survey delineating the closed lane has recently been prepared and it is now appropriate to pass the by-law affecting the closing.

Implications of the Recommendation(s):

General Implications

(x) None

( ) For the organization overall and/or for other departments

( ) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s):

Policy Implications

(x) No

( ) Yes

Comment(s):

Regulatory Implications

(x) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

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

( ) Current and/or capital budget adjustment required

Comment(s): All costs associated with the closing will be borne by the applicant. There are no financial implications for the City of Winnipeg.

Report

REASON FOR THE REPORT:

The closing of public rights-of-way requires a by-law under Section 139 of The City of Winnipeg Charter.

HISTORY:

In 1999, the Planning, Property and Development Department received a request from Mr. Martin Bergen to purchase the public lane shown as “Proposed Closing” on the attached Misc. Plan No. 10687. Mr. Bergen is the principal director of the company that owns the Oakland Gardens, the apartment building adjacent to the lane. His request to purchase the lane was made on behalf of the residents of the Oakland Gardens, who had expressed concerns about the increase in traffic in the lane when an application was made to build a drive-through restaurant, convenience store and a Petro Canada gas kiosk on the west side of the lane. This development has since been built.

On September 28, 1999, the East Kildonan-Transcona Community Committee approved the closing of the lane.

On April 27, 2004, the Standing Policy Committee on Property and Development approved the terms of the sale of the lane.

The plan of survey delineating the closed lane has recently been prepared and it is now appropriate to pass the by-law effecting the closing.

DISCUSSION:

Administrative Approval

All affected City departments and public utilities have considered the proposal. There are no administrative objections to the closing.

The Public Works Department has advised that the applicant will be responsible for the removal of the concrete lane approaches at McLeod and Oakland and the restoration of the curb, sidewalk and boulevard. If the applicant wishes to retain the approaches, a private approach permit will be required.

Easements

Manitoba Hydro and MTS Allstream will require easements for the maintenance of their plants in the lane.

Zoning

The property adjoining the west side of the lane is zoned C2. The property adjoining on the east side of the lane is zoned RM-7. The west half of the lane will assume the C2 zoning and the east half will assume the RM-7 zoning. Depending on the purchaser's intended use of the closed lane, a rezoning application may be required.

Transfer of Jurisdiction Over Public Rights-of-Way

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

Submission of Report in Accordance with By-Law 7325/98

This report is submitted in accordance with the provisions of By-law 7325/98, a By-law to allow certain street opening and closing applications to be submitted to the Executive Policy Committee for report to Council without the requirement to be reviewed by a Standing Policy Committee.

The following criteria must be met before the authority given in the by-law may be exercised:

1. The proposed closing must have been addressed at a public meeting and received approval from the Committee before which the public meeting took place.

2. The proposed closing and sale must have been approved by the Director of Public Works.

3. The proposed closing must have been submitted to all affected City Departments and public utilities with no objections having been received.

4. Any conditions regarding engineering aspects (i.e. relocation of facilities) must have been mutually agreed to.

5. The terms and conditions of any easement agreements created by the proposed closing and sale must have been addressed.

6. The proposed closing must have been approved by the affected property owner(s).

7. The terms and conditions of any agreements concerning the proposed closing and sale must have been approved by the Director of the department that requested the closing and either the Standing Committee on Fiscal Issues, the Standing Committee on Property and Development, or the Director of Property and Development Services, as is appropriate.

All of these conditions have been met.

Financial Impact Statement Date: April 10, 2006

Project Name:

DAC 16/1999 – PROPOSED CLOSING OF THE PUBLIC LANE EAST OF HENDERSON HIGHWAY BETWEEN MCLEOD AND OAKLAND AVENUES

COMMENTS:

All costs associated with the closing will be borne by the applicant. There are no financial implications for the City of Winnipeg.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Corporate Finance Department

Public Works Department

Water and Waste Department

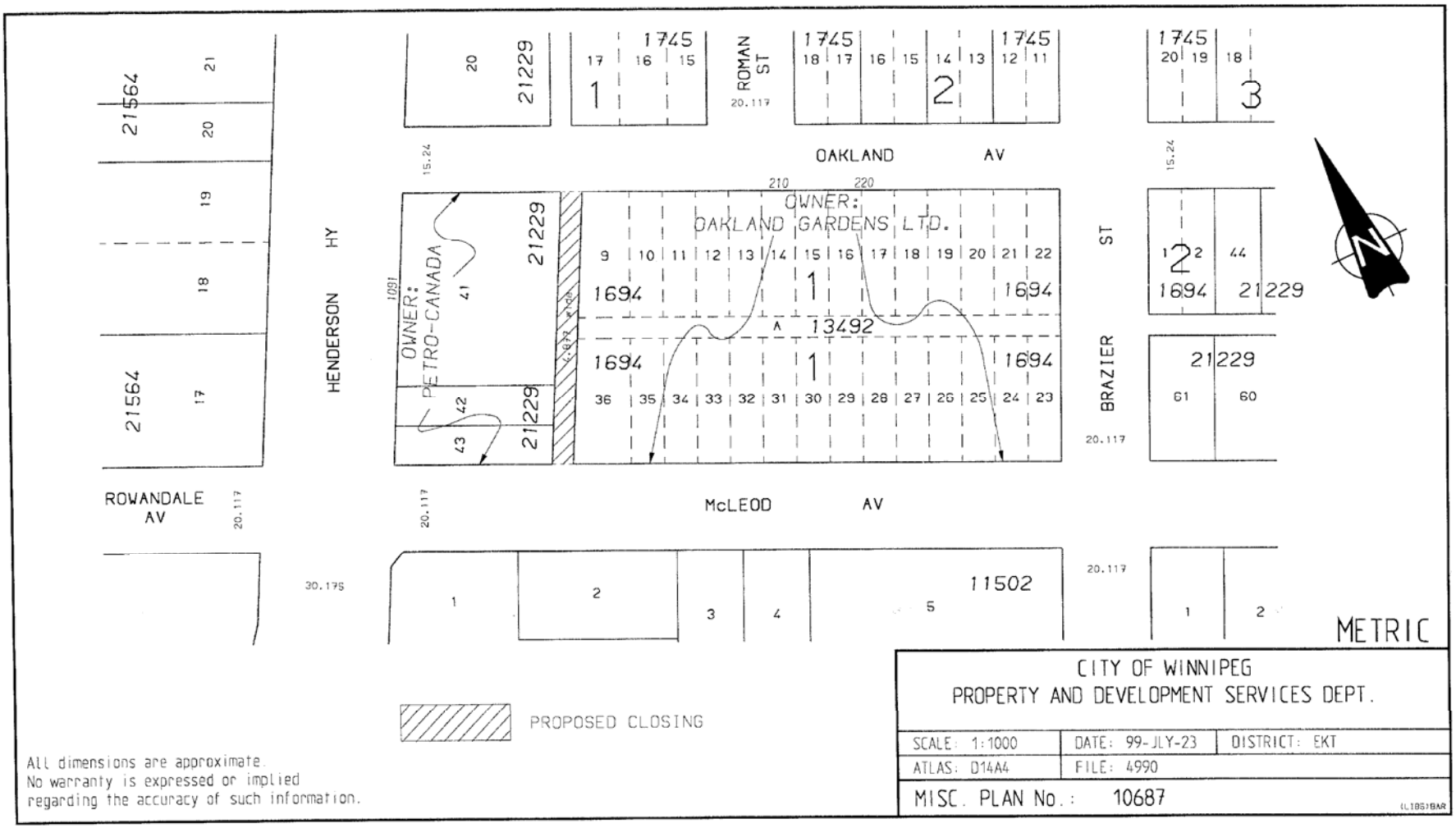
External Consultation With:

Centra Gas, Manitoba Hydro, MTS Communications

Shaw Cable did not respond to the request for easement requirements.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Development and Inspections
Prepared by: Glenn Halldorson, Real Property Officer
PPD File #: 4990



OAKLAND AV
McLEOD AV
ROWANDALE AV
HENDERSON HY
ROMAN ST
BRAZIER ST
OWNER: OAKLAND GARDENS LTD.
OWNER: PETRO-CANADA
13492
1694
1745
21229
21564
11502
METRIC
PROPOSED CLOSING
All dimensions are approximate.
No warranty is expressed or implied
regarding the accuracy of such information.
CITY OF WINNIPEG
PROPERTY AND DEVELOPMENT SERVICES DEPT.
SCALE: 1:1000
DATE: 99-JLY-23
DISTRICT: EKT
ATLAS: D14A4
FILE: 4990
MISC. PLAN No.: 10687