**Minute No. 350**
**Report – Standing Policy Committee on Property and Development – April 10, 2012**

**Item No. 1** **Closing – Part of the Public Lane between Marion and Horace Streets, east of St. Mary's Road (St. Boniface Ward) File DAC 20/2011**

COUNCIL DECISION:

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

1. That the application for street closing under File DAC 20/2011 be rejected.

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 – April 10, 2012**

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 18, 2012, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On April 10, 2012, 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 March 6, 2012, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service that the application for a street closing under File DAC 20/2011 be rejected, and forwarded the matter to the Standing Policy Committee on Property and Development.

## PUBLIC HEARING SUMMARY

| | |
|---|---|
| File: | DAC 20/2011 |
| Before: | Riel Community Committee<br>Councillor Mayes, Chairperson<br>Councillor Swandel<br>Councillor Vandal |
| Public Hearing: | March 6, 2012<br>Council Chamber<br>Council Building, 510 Main Street |
| Applicant: | Ital-Can Investments Inc. (Francis Bova) |
| Premises Affected: | Part of the Public Lane between Marion and Horace Streets, East of St. Mary's Road |
| Exhibits Filed: | 1. Report from the Real Property Officer dated February 10, 2012<br>2. Inspection Report<br>3. Communication dated March 1, 2012, in opposition to the application from Dr. Rupinder Diocee in opposition to the application.<br>4. Communication dated March 2, 2012, and supporting documentation in opposition to the application from Brian Sparrow |

REPRESENTATIONS:

In Support:

Nansy Bova-Marsiglia
Giuseppe and Frances Bova

In Opposition:

Christian Benhamou
Dr. Rupinder Diocee
Norm Gousseau
Ralph Masi
Réal Rioux
Ben Sparrow
Brian Sparrow
Wendy Voyer

For Information:

Ken Sturk and Rachel DeGagné

For the City:

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

Exhibit "1" referred to in File DAC 20/2011

# ADMINISTRATIVE REPORT

**Title:** **DAC 20/2011: TO SEEK COUNCIL APPROVAL FOR THE PROPOSED CLOSING OF PART OF THE PUBLIC LANE BETWEEN MARION AND HORACE STREETS, EAST OF ST. MARY'S ROAD**

**Critical Path:** **RIEL COMMUNITY COMMITTEE – STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT - EXECUTIVE POLICY COMMITTEE – COUNCIL**

## AUTHORIZATION

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

## RECOMMENDATIONS

That the public lane closing under File No. DAC 20/2011 not be proceeded with.

## REASON FOR THE REPORT

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

## IMPLICATIONS OF THE RECOMMENDATIONS

There are no policy, regulatory, environmental, human resource or general implications associated with the recommendations.

Should it be the Riel Community Committee's decision to recommend approval of the proposed closing, all costs associated with this application are the responsibility of the applicant. There are no financial implications for the City of Winnipeg.

## HISTORY

The Planning, Property and Development Department has received a request from Mrs. Francis Bova of Ital-Can Investments Inc. to close and purchase the portion of the public lane so identified on the attached copy of Misc. Plan No. 9069/1. Ital-Can Investments is the registered owner of the property adjoining the proposed closing as shown on the sketch. Property to the north of the proposed closing comprises the Torino Centre, a strip mall housing commercial development at No. 3 St. Mary's Road. Property to the south is presently used as a parking lot for the patrons and employees of the strip mall.

The applicant has advised that vehicles presently use the lane as a high speed short cut to enter the parking lot of the Torino Centre to access the approach onto Marion Street in order to avoid traffic congestion at the St. Mary's Road and Marion Street intersection. This poses significant safety concerns for pedestrian and vehicular movement within the parking lot at this location.

The applicant is also requesting the closing in order to accommodate future development of the Torino Centre. The proposed closing and subsequent sale of the lane would allow Ital-Can Investments to expand their current strip mall southward onto their adjoining lot. The additional space would provide for the development of approximately 2500 ft² of new retail space.

The subject lane was initially proposed to be closed by the City of St. Boniface in 1970 and considered as to planning approval by the former Metropolitan Corporation of Greater Winnipeg prior to the inception of the current City of Winnipeg. The Corporation's Council approved the closing on January 22, 1970. It was the intention of the City of St. Boniface to transfer the lane, once closed, to Champs Foods Limited for the development of a restaurant at the site. However, the former St. Boniface Council did not pass the required lane closing by-law, and the matter sat in abeyance for several years. In 1973, the proposal was re-circulated via application DAC 18/73.

During the subsequent circulation, concerns regarding the application were raised by the St. Boniface Community's Police and Fire Chiefs. Both cited potential problems regarding access issues and vehicle maneuverability of the lane corner immediately east of the closing. The Planning Division also cited an anticipated increase in traffic in the area once the restaurant was to be opened, as well as the dead-ending of the east/west public lane adjoining the proposed restaurant site as negative impacts on the community. It was their recommendation that the application be denied and that the lane remain open as public right of way.

At its meeting held on December 24, 1973, the Committee on Environment considered application DAC 18/73 for the closing of the public lane. It was the decision of the Committee that the application not be approved.

In March of 1994, Mr. Joseph Bova of Ital-Can Investments applied to close the subject lane which was processed via application DAC 1/94. The Streets and Transportation Department and District Planner both objected to the proposal, citing the negative impact that the closing would have on area residents by diverting and increasing traffic flow from the north/south public lane immediately east of the closing onto Horace Street.

At its meeting held on April 18, 1994, the Riel Community Committee concurred in the administrative recommendation that the lane closing not be approved. On May 3, 1994, the Committee on Planning and Community Services concurred in the Riel Community Committee's recommendation.

## CONSULTATION

### In preparing this Report there was consultation with:

**Internal Consultation:**

Planning, Property and Development
Public Works
Water and Waste

**External Consultation:**

Manitoba Hydro
Centra Gas

## SUBMITTED BY

Department: Planning, Property and Development
Division: Development and Inspections
Prepared by: Bohdan Buyachok, Real Property Officer
Date: February 10, 2012
File No.

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**APPENDIX "A"**

Administrative Objections

The proposal has been considered by all affected City departments and public utilities.

The Transportation Engineering Division of the Public Works Department objects to the proposal as the lane closing would divert traffic into the north/south lane entering Horace Street. Area residents on Horace have previously expressed concerns regarding traffic generated by the developments on the land in the area bounded by St. Mary's Road, Marion Street, Tache Avenue and Horace Street. The proposed closure would result in additional traffic from these developments being directed to Horace.

The Urban Planning Division of the Planning, Property and Development Department concurs with the objections of the Public Works Department.

Administrative Comments

The following administrative comments have been provided in the event that it is the Riel Community Committee's decision to recommend approval of the proposed lane closing.

The Transportation Engineering Division of the Public Works Department will require the applicant to enter into a Servicing Agreement with the City for the removal of the existing lane turnout and the restoration of the curb, boulevard and sidewalk, as determined by and to the satisfaction of the Director of Public Works.

The Water and Waste Department will require the applicant to submit a lot grading plan for approval.

Easements

The following easements will be required in the event that the subject lane is closed and sold to the applicant.

Manitoba Hydro and Centra Gas Manitoba Inc. have identified services within the closing area and will require easements for these existing facilities. At this time, Manitoba Hydro is unable to determine where their existing facilities are located within the lane closing. They will require the landowner's surveyor to prepare a sketch showing the exact location of all Manitoba Hydro facilities on the subject property. They will return an easement layout for their preparation of the easement plan, if required.

No permanent structures will be allowed within the easement areas.

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

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.

Aerial View of Subject Closing



Miscellaneous Plan

