Minute No. 490
Report – Executive Policy Committee – July 3, 2013

Item No. 2 **Closing - Part of the Public Lane in the Block bounded by Main and Albert Streets and Notre Dame and McDermot Avenues (Point Douglas Ward) File DAC 7/2013**

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the proposed public lane closing as shown on Misc. Plan No. 14475 be approved and that the land be declared surplus to the City's needs, subject to the following conditions:

   A. That the applicant be required to, within six months of the adoption of this report by Council:

      i. obtain a Building Permit for the project as described in this report; and

      ii. enter into an Offer to Purchase with the City for the purchase of the public lane land, the terms and conditions of which are subject to the approval of the Chief Administrative Officer.

2. That in accordance with the above recommendations, the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the lane closing in accordance with Misc. Plan No. 14475.

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

Report – Executive Policy Committee – July 3, 2013

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 3, 2013, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 24, 2013, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management concurred in the recommendation of the Winnipeg Public Service and submitted its recommendation to the Executive Policy Committee.

PUBLIC HEARING SUMMARY

File:	DAC 7/2013
Before:	Standing Policy Committee on Downtown Development, Heritage and Riverbank Management Councillor Pagtakhan, Chairperson Councillor Browaty Councillor Fielding Councillor Gerbasi
Public Hearing:	June 24, 2013 Council Building, 510 Main Street
Applicant:	Asper Tower Inc.
Premises Affected:	part of the Public Lane in the Block bounded by Main and Albert Streets and Notre Dame and McDermot Avenues
Exhibits Filed:	1. Report from the Real Property Officer dated June 12, 2013 2. Inspection Report

REPRESENTATIONS:
In Support:
Kerra Mruss, MMM Group
Dan Edwards
Courtney Hutchison
Ray Wan
Alfred Schleier

In Opposition:
Frank Bheti

For Information:
Matt Cornelsen
Douglas Wiebe
Richard Edwards

For the City:
Mr. B. Thorgrimson, Director of Planning, Property and Development
Mr. B. Buyachok, Real Property Officer, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 7/2013

ADMINISTRATIVE REPORT

Title: **DAC 7/2013: TO SEEK COUNCIL APPROVAL FOR THE PROPOSED CLOSING OF PART OF THE PUBLIC LANE IN THE BLOCK BOUNDED BY MAIN AND ALBERT STREETS AND NOTRE DAME AND MCDERMOT AVENUES**

Critical Path: **STANDING POLICY COMMITTEE ON DOWNTOWN DEVELOPMENT, HERITAGE AND RIVERBANK MANAGEMENT - EXECUTIVE POLICY COMMITTEE – COUNCIL**

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	B. Thorgrimson	N/A	D. Joshi

RECOMMENDATIONS

1. That the proposed public lane closing as shown on Misc. Plan No. 14475 be approved and that the land be declared surplus to the City's needs, subject to the following conditions:

   The applicant be required to, within six (6) months of the adoption of this report by Council,

   (a) obtain a Building Permit for the project as described in this report; and

   (b) enter into an Offer to Purchase with the City for the purchase of the public lane land, the terms and conditions of which are subject to the approval of the Chief Administrative Officer.

2. That in accordance with the above recommendations, the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the lane closing in accordance with Misc. Plan No. 14475.

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

REASON FOR THE REPORT

All street and lane closings within the boundaries of the Downtown Winnipeg area, as defined by By-Law 100/2004, require the consideration of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management.

IMPLICATIONS OF THE RECOMMENDATIONS

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

All costs associated with the lane closing are the responsibility of the applicant. There are no financial implications for the City of Winnipeg.

The proposal has been considered by all affected City departments and public utilities. There are no administrative objections to the lane closing. Approval is subject to the following administrative comments:

The Engineering Division of the Public Works Department requires the following:

1) Confirmation in writing from the following property owners that they are agreeable to the closure of the public lane and access arrangements as proposed by the Applicant, Asper Tower Inc.:

- Canadian Midwest District Alliance, 222 McDermot Avenue
- Toricampo Investments Inc., 216 McDermot Avenue
- Criterion Properties Inc., 214 McDermot Avenue
- Mayberry Holdings Ltd., 212 McDermot Avenue
- Fratelli Enterprises Ltd., 436 Main Street
- Hammond Building Ltd., 61 Albert Street
- PBX Properties (Manitoba) Ltd., 213 Notre Dame Avenue

2) The closed public lane is to be consolidated with the Applicant's existing property.

3) The provision of an Access Easement Agreement, satisfactory to the above property owners, for continued, unimpeded access for employees, deliveries, refuse vehicles, snow clearing equipment etc., being registered as a caveat on the "private lane".

The Planning and Land Use Division requires the applicant to file an Urban Design Review Application should any physical changes occur to the lane, such as new signage, etc.

The Plan Examination Branch requires spatial separation calculations and construction details of all the buildings adjacent to the proposed lane closing in order to ensure that maximum areas of unprotected openings and exposed building face construction will maintain compliance with the Manitoba Building Code.

The Engineering Division of the Water and Waste Department has identified a 250mm land drainage sewer main, 200mm and 250mm catch basin leads and several catch basins within the subject lane. Assuming that the applicant will take over ownership of the water and sewer infrastructure within the lane, the Water and Waste Department has no objections to the proposed closing. If the applicant is not intending to take over ownership of the above mentioned infrastructure, an easement will be required.

Manitoba Hydro, Manitoba Hydro Telecom, Centra Gas, Bell Canada, MTS Inc., Shaw Cablesystems and Telus have identified services within the closing area.

All utilities will require easements for these existing facilities. 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.

HISTORY

The Planning, Property and Development Department has received a request from Ms. Kerra Mruss of MMM Group, representing Asper Tower Inc., to close and purchase the portion of the public lane so identified on the attached copy of Misc. Plan No. 14475. The lane closing is being requested in order to facilitate the development of the applicant's property on Main Street immediately north of 201 Portage Avenue. The site development is to include retail and commercial space on the lower levels of a multi-storey residential and hotel tower complex.

Vehicular access to the proposed development will be provided via a right-in only approach on southbound Main Street and all-directional access from the existing public lane on the west side of the site off Albert Street. In order to better serve the development and the adjacent buildings, the property owner is proposing to convert the public lane into a private laneway with continued public access. The private laneway is to function as a one-way operation as illustrated on the sketch contained in this report. The portion of the remaining east/west public lane immediately north of the subject closing will also function as a one-way operation as shown. Vehicles will be able to enter the lane at the north or south access points on Albert Street and exit via the middle access.

The conversion to a private laneway will allow the property owner to better control the operations in the lane, including loading activities, waste and recycling operations and pick-up and drop-off movements. All of these operations within the laneway will continue to be accommodated for public use. The conversion will also allow the property owner to monitor and control the illegal stopping and parking of vehicles currently impeding circulation in the lane, especially for larger loading vehicles. Converting the lane function to one-way will also increase its capacity and improve its present operation.

The subject lane was opened by Plan No. 4514 and registered in the Winnipeg Land Titles Office in September of 1945. A portion of the lane was widened by By-law No. 15916 and registered in the Winnipeg Land Titles Office via Instrument No. 854163 in July of 1946. Additional portions of the lane were subsequently opened by Plan No. 25726 and registered in the Winnipeg Land Titles Office in September of 1990.

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.

FINANCIAL IMPACT

Financial Impact Statement **Date:**

Project Name:

DAC 7/2013: Proposed Closing of Part of the Public Lane in the Block Bounded by Main and Albert Streets and Notre Dame and McDermot Avenues

COMMENTS:

All costs associated with the lane closing are the responsibility of the applicant. There are no financial implications for the City of Winnipeg.

CONSULTATION

In preparing this report there was consultation with:

Internal Consultation:

There was consultation with the affected Civic departments.

External Consultation:

Manitoba Hydro, Manitoba Hydro Telecom, Centra Gas, MTS Inc., Shaw Cablesystems, Bell Canada, Rogers Communications, Telus and TeraSpan.
Imperial Oil, Fiber, Louis Riel School Division and Norscan did not respond to the request for comment on this proposal.

SUBMITTED BY

Department: Planning, Property and Development
Division: Land Development, Geomatics and Land Information Services
Prepared by: Bohdan Buyachok, Real Property Officer
Date: June 12, 2013
File No.

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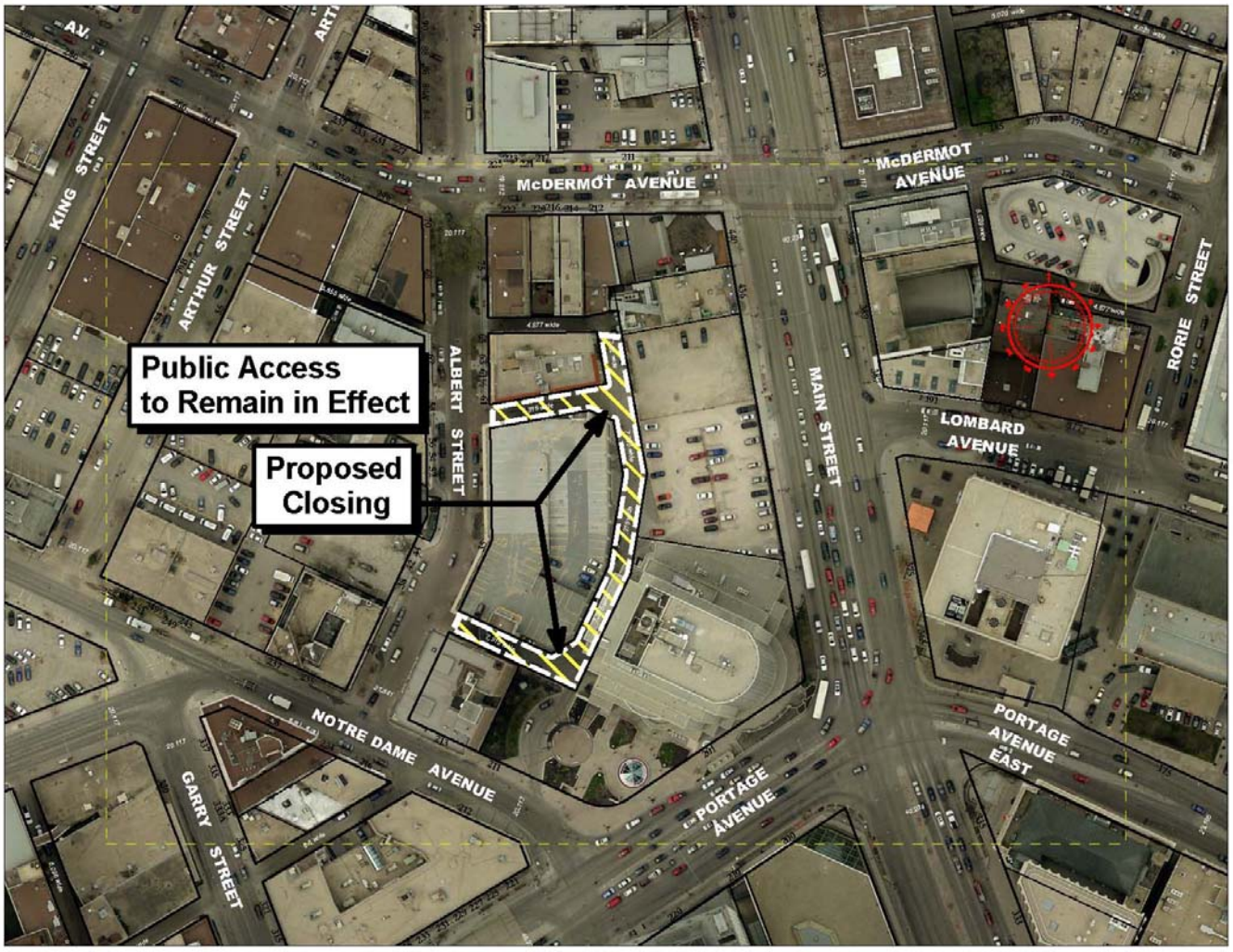
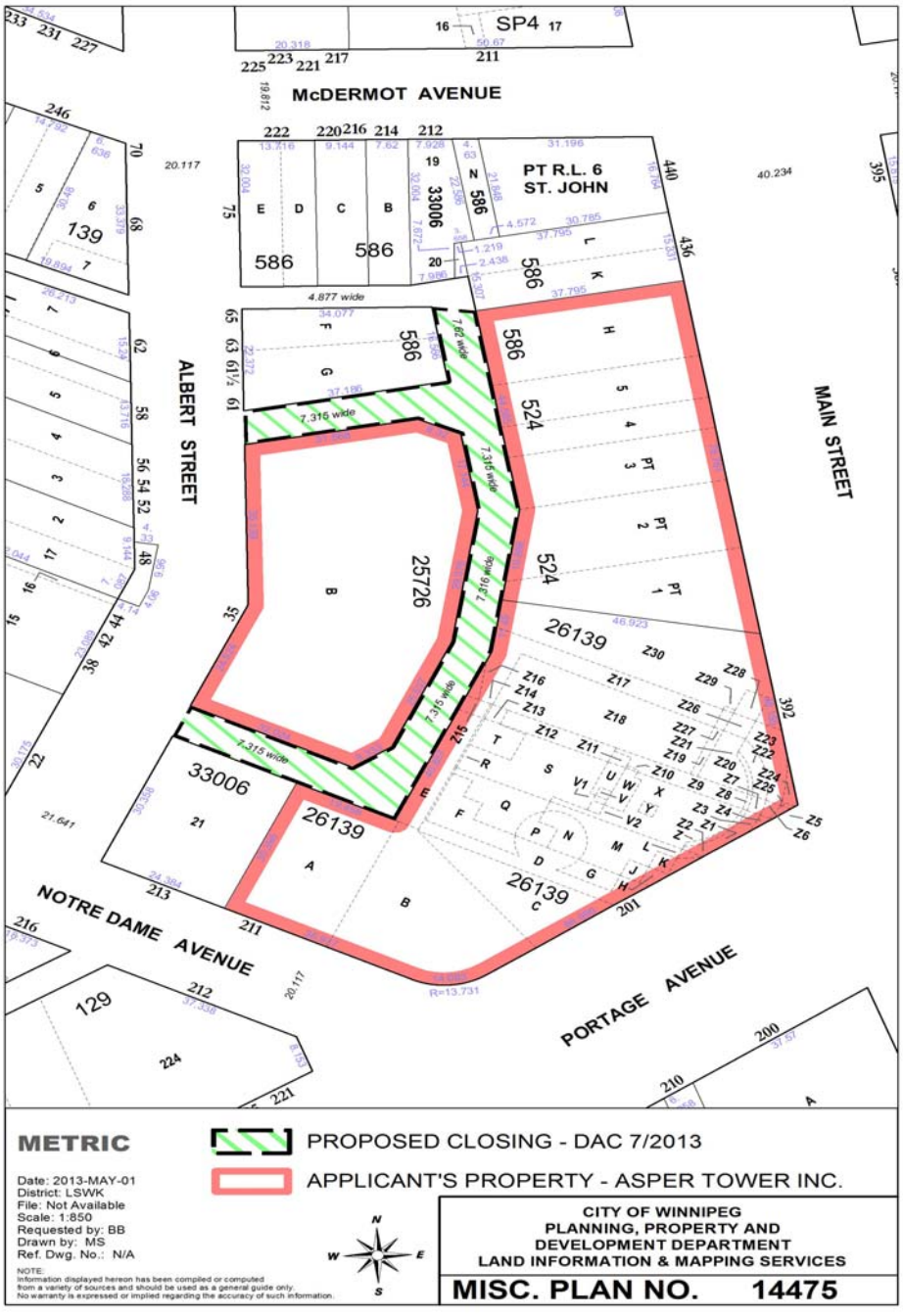
Aerial View of Subject Closing



Miscellaneous Plan



Proposed Lane Conversion



PROPOSED CLOSING: DAC 7/2013