Minute No. 361
Report – Standing Policy Committee on Property and Development – March 11, 2014

Item No. 13 **Closing – Parts of Kenaston Boulevard, Plan 8402 WLTO and Public Road Plan 9280 WLTO (Kenaston Boulevard Snow Dump Site) (Charleswood – Tuxedo Ward)**
File DAC 11/2013

COUNCIL DECISION:

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

1. That the street closing as shown on Misc. Plan No. 14496/4 be approved and that the land be declared surplus to the City's needs and offered for sale on the open market, subject to the following conditions:

   A. The sale of the lands otherwise known as Snow Dump Road shall be publicly tendered. Furthermore, the City shall evaluate the proposal that provides the best value to the City. All tenders should be considered; firstly by how they will address the policy and planning objectives for the area and secondly by the price they are prepared to pay.

2. That the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the street closing in accordance with Misc. Plan No. 14496/4, as amended, subject to the approval of the terms and conditions of the conveyance of the land by the Director of the Planning, Property and Development Department.

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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 March 19, 2014, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee, as amended, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 11, 2014, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee with the following amendment:

- Delete Recommendations 1. B and 1. C. in their entirety,

and forwarded the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 4, 2013, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service with the following amendments:

- Add the following conditions, under Recommendation No. 1:

  "A. The sale of the lands otherwise known as Snow Dump Road shall be publicly tendered. Furthermore, the City shall evaluate the proposal that provides the best value to the City. All tenders should be considered; firstly by how they will address the policy and planning objectives for the area and secondly by the price they are prepared to pay.

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DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

B. The proposed closing, DAC 11/2013, shall be amended to include a 60 meter right-of-way that will accommodate a future public road and a future sewer interceptor. The portion of land that is to be sold shall be adjusted accordingly.

C. The proposed closing, DAC 11/2013, shall clearly identify that the subject lands are identified as Employment Lands and are part of a Major Re-development site as identified in OurWinnipeg."

and forwarded the matter to the Standing Policy Committee on Property and Development.

On February 4, 2014, the Assiniboia Community Committee adjourned the public hearing to its meeting on March 4, 2014 at 5:00 p.m. in the Council Building, 510 Main Street.

On November 5, 2013, the Assiniboia Community Committee did not hear representation on the application and adjourned the public hearing to its meeting on February 4, 2014 at 5:00 p.m. in the Council Building, 510 Main Street.

On September 9, 2013, the Assiniboia Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on November 5, 2013, at 5:00 p.m. in the Council Building, 510 Main Street.

PUBLIC HEARING SUMMARY

File:	DAC 11/2013
Before:	Assiniboia Community Committee Councillor Nordman, Chairperson Councillor Fielding Councillor Havixbeck
Public Hearing:	March 4, 2014 February 4, 2014 November 5, 2013 September 9, 2013 Council Building, 510 Main Street
Applicant:	Planning, Property and Development Department
Premises Affected:	Parts of Kenaston Boulevard, Plan 8402 WLTO and Public Road Plan 9280 WLTO (Kenaston Boulevard Snow Dump Site)

Exhibits Filed:

1. Report from the Real Property Officer dated August 21, 2013
2. Inspection Report
3. Communication dated September 9, 2013, from Michael Falk, requesting adjournment
4. Notice of Adjournment dated October 24, 2013
5. Revised report from the Real Property Officer dated October 23, 2013
6. Communication dated November 5, 2013, from Andrew L. Thompson, Thompson Dorfman Sweatman LLP, Counsel for Lafarge Canada Inc., with respect to the application
7. Notice of Adjournment dated November 7, 2013
8. Second Revised report from the Real Property Officer dated December 19, 2013
9. Communication dated February 4, 2014, from Michael Falk, Terracon Development Ltd., with respect to the application.
10. Notice of Adjournment dated February 10, 2014
11. Communication dated March 3, 2014, from Bruce Whale, Director of Land and Resources Western Canada, Lafarge Canada Inc., with respect to the above matter.

REPRESENTATIONS:

In Support:

John S. Zabudney
Barry Lucyk

In Opposition:

Michael Falk, Terracon Development Ltd.
Andrew Thompson
Bruce Whale, Lafarge Canada Inc.
Matt Glavin

For Information:

Joedi Pruden
Guy Magnusson

For the City:

Mr. J. Veitch, Principal Planner, Planning, Property and Development Department
Mr. D. Clark, Planner, Urban Planning Division, Property and Development Department
Mr. B. Buyachok, Real Property Officer, Planning, Property and Development Department

Exhibit "8" referred to in File DAC 11/2013

ADMINISTRATIVE REPORT

Title: **SECOND REVISED REPORT FOR DAC 11/2013: TO SEEK COUNCIL APPROVAL FOR THE PROPOSED CLOSING OF PARTS OF KENASTON BOULEVARD, PLAN 8402 WLTO AND PUBLIC ROAD PLAN 9280 WLTO (KENASTON BOULEVARD SNOW DUMP SITE)**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet and J. Zabudney	B. Thorgrimson	N/A	N/A

RECOMMENDATIONS

1. That the proposed street closing as shown on Misc. Plan No. 14496/4 be approved and that the land be declared surplus to the City's needs and offered for sale on the open market.

2. That the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the street closing in accordance with Misc. Plan No. 14496/4, subject to the approval of the terms and conditions of the conveyance of the land by the Director of the Planning, Property and Development Department.

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 require the consideration of the Community Committee.

The first revised report was submitted in order to address access issues raised by Terracon Development Ltd., the property owner immediately north of the subject closing. The second revised report is being submitted in order to clarify the reduction of the closing area identified in the History Section.

IMPLICATIONS OF THE RECOMMENDATIONS

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

Costs associated with the street closing are the responsibility of the Planning, Property and Development Department and are within the approved current and/or capital budget and considered immaterial in nature.

HISTORY

The Real Estate Division of the Planning, Property and Development Department is proceeding with an application to close the portion of the public road (Kenaston Boulevard Snow Dump Site) so identified on the attached copy of Misc. Plan No. 14496/4. Once closed, it is the intention of the Real Estate Division to sell the property on the open market.

On January 29, 2013, Council approved the Report of the Executive Policy Committee dated January 23, 2013 for the 2013 Capital Budget, the 2014 to 2018 Five Year Forecast and the 2013 to 2015 Operating Budget. One of Report's recommendations was that subject to Council approving the necessary street closing by-law, the portion of the Kenaston Boulevard right of way commonly referred to as the Kenaston Snow Dump be declared surplus to the City's needs.

In November of 2010, Terracon Development Ltd. made an application to close a portion of Public Road Plan 9280 WLTO under DAC 8/2010 immediately west of the subject closing as identified on the attached Misc. Plan. The closing was approved by the Assiniboia Community Committee on February 8, 2011 and by Council on March 23, 2011. Closing By-law No. 68/2012 was subsequently passed by Council on April 25, 2012. The original report for the subject DAC 11/2013 application dated August 21, 2013 indicated that the closing mylars and by-law for DAC 8/2010 had not been registered, pending the finalization of a required cross access agreement between Terracon and HMQ Manitoba whose property would become landlocked as a result of the DAC 8/2010 closing. Terracon has now provided the City with a copy of the executed easement agreement. The sketch attached to the agreement showing the access area appears in Schedule "A" of this report. The closing mylars along with By-law No. 68/2012 for DAC 8/2010 were registered in the Winnipeg Land Titles Office on October 23, 2013.

The original report for the subject DAC 11/2013 application was to be considered by the Assiniboia Community Committee on September 9, 2013. Prior to the meeting, Terracon Development Ltd. raised concerns regarding a potential loss of access from Kenaston Boulevard to their property immediately north of the subject closing. The Assiniboia Community Committee did not hear representation on the application and adjourned the public hearing to its meeting on November 5, 2013. The public hearing was subsequently adjourned to the Committee's meeting scheduled for February 4, 2014.

The administration has now addressed Terracon's concerns. Misc. Plan No. 14496/1 comprises the sketch attached to the original report. Misc. Plan No. 14496/4 is the revision which forms part of the subject report. The northerly 32m of Public Road Plan 9280 will remain legally opened, providing Terracon with access to their holding. This geometry will also provide a smooth transition for access to Kenaston Boulevard granted to HMQ Manitoba by Terracon as part of the requirements in previous application DAC 8/2010. Furthermore, retaining 32m as right of way will accommodate the location of the future extension of the regional wastewater interceptor sewer. A 20m wide right of way adjoining the southerly portion of the proposed closing will also be retained for additional access to Kenaston Boulevard.

The original closing shown on Misc. Plan No. 14496/1 comprises an area of ±64,446.5 m² (±15.93 acres). The revised closing shown on Misc. Plan No. 14496/4 comprises an area of ±52,194.4 m² (±12.90 acres). The revision now reduces the overall land area for prospective sale by approximately 12,252.10 m² (3.03 acres).

The subject road was opened by Plan Nos. 8402 and 9280 and registered in the Winnipeg Land Titles Office in November, 1963 and August, 1966 respectively. The snow dump area of the subject property consists of a packed gravel surface. The remainder of the property consists of bush. The site currently serves no public access or transportation purpose.

CONSULTATION

In preparing this Report there was consultation with:

Internal Consultation:

There was consultation with the affected Civic departments.

External Consultation:

Manitoba Hydro, Centra Gas, MTS Inc., Bell Canada, Rogers Communications, Norscan, TeraSpan and Telus.
Shaw Cablesystems, Imperial Oil, Pembina Trails School Division and Fibre did not respond to the request for comments 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:	December 19, 2013
File No.	8121

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APPENDIX "A"

Administrative Approval

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

Administrative Comments

The original condition of approval by the Geomatics Branch of the Planning, Property and Development Department for the prospective purchaser of the closing area to enter into a cross access or easement agreement as necessary to allow ingress/egress from Kenaston Boulevard to Parcel "A", Plan Deposit No. 766/2011 (DAC 8/2010) has been withdrawn.

The Traffic Signals Branch of the Public Works Department has provided the following comment:

- There is no infrastructure in the specified closing area that pertains to street lighting. All lights and wood poles housing lights are owned by Manitoba Hydro. There is an existing electrical distribution located on a pole that belongs to Street Maintenance that will require removal.

Easements

The original requirement by the Engineering Division of the Water and Waste Department for a 20m wide easement for the future extension of the regional wastewater interceptor sewer has been withdrawn.

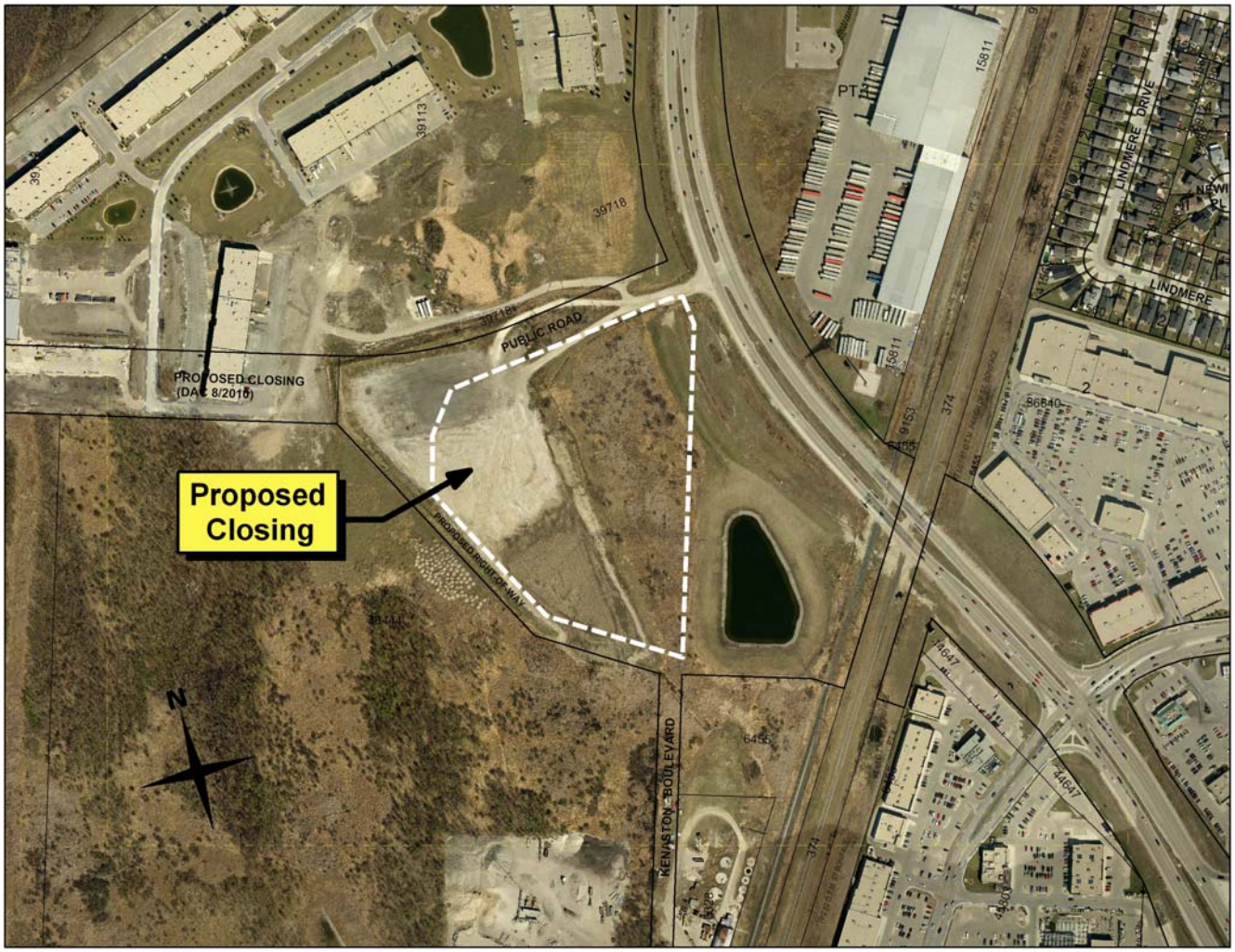
Manitoba Hydro has identified services within the closing area and will require easements for these existing facilities as well as future development. No permanent structures will be allowed within the easement areas.

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

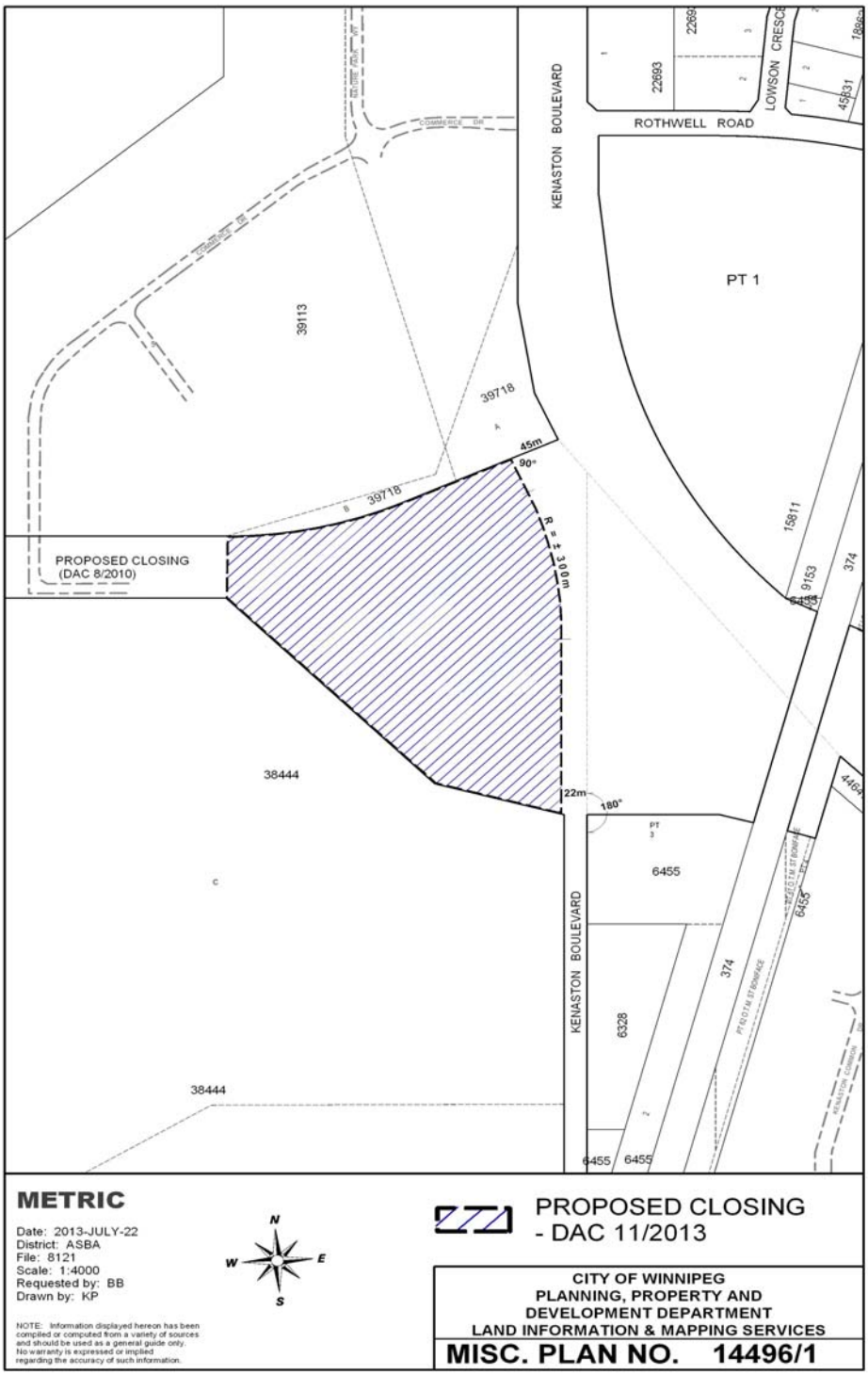
Transfer of Jurisdiction Over Public Rights-of-Way

The street 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.

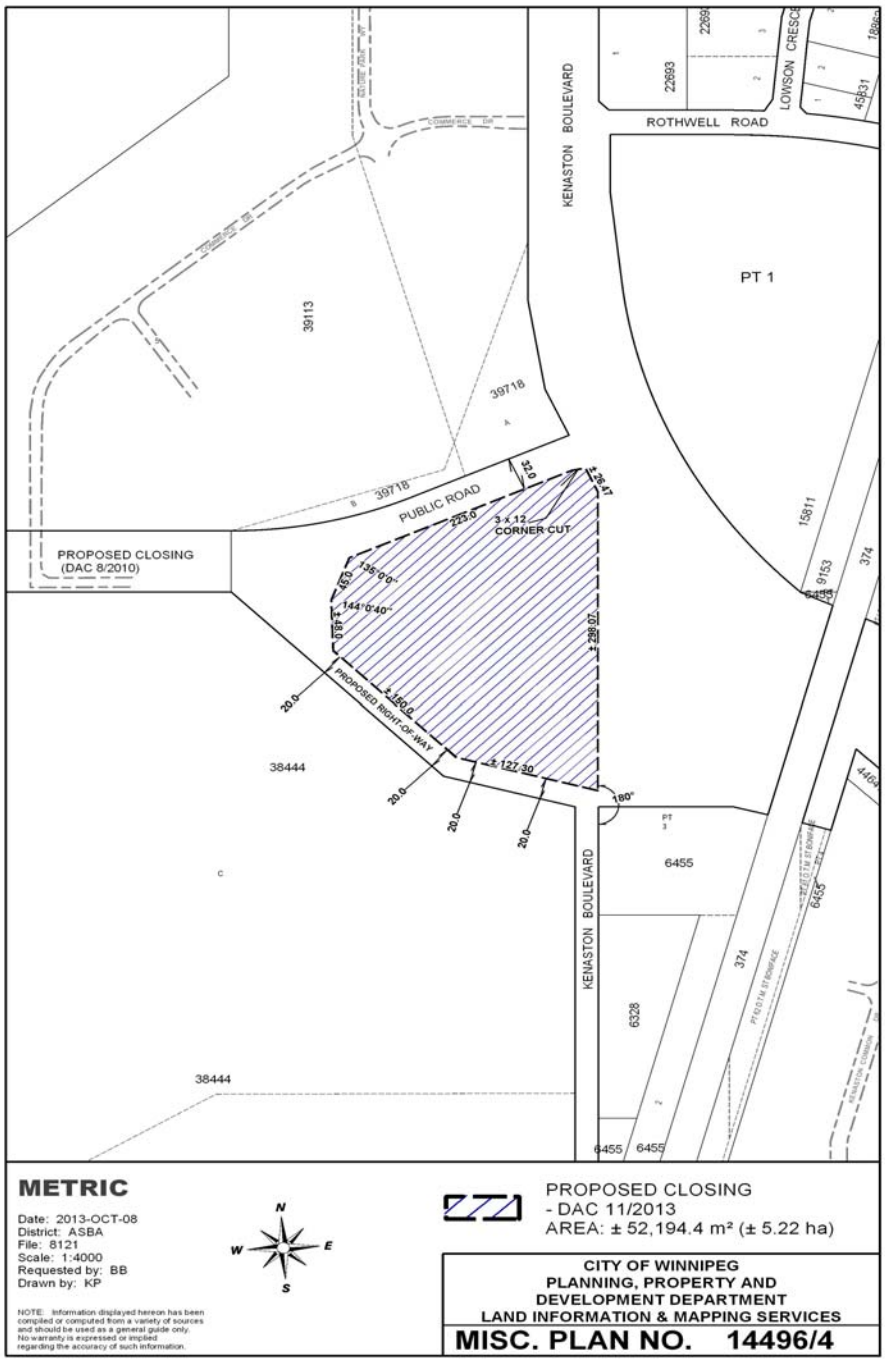
Aerial View of Revised Subject Closing



Miscellaneous Plan: Original Closing



Miscellaneous Plan: Revised Closing



Access Sketch: HMQ Manitoba Over DAC 8/2010

