Minute No. 675
Report – Standing Policy Committee on Property and Development – October 13, 2015

Item No. 1 **Street Opening, Closing and Rededication – St. Matthews Avenue east of Kensington Street**
(St. James – Brooklands – Weston Ward)
File DAOC 1/2015

COUNCIL DECISION:

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

1. That the proposed street opening as shown on Misc. Plan No. 14897 and street closing as shown on Misc. Plan No. 14543/8 be approved and that the portions of the street proposed to be closed be declared surplus to the City's needs.

2. That the proposed street rededications as shown on Misc. Plan No. 14543/8 be approved.

3. That the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law(s) for submission to Council to effect the street opening and closing in accordance with Misc. Plan Nos. 14897 and 14543/8, subject to the approval of the terms and conditions of the conveyance of the land by the Director of Planning, Property and Development.

4. 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 – October 13, 2015

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 21, 2015, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Assiniboia Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On October 13, 2015, the Standing Policy Committee on Property and Development concurred in the recommendation of the Assiniboia Community Committee, with the following amendment:

- Delete the following from Recommendation 1:

  "subject to the following condition:

  A. That median access be provided to allow for a left hand turn off of St. Matthews Avenue into the property at 500 Madison Street, as agreed to by the appropriate City Department and it's Director, as well as the owner of the subject property."

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

COMMUNITY COMMITTEE RECOMMENDATION:

On September 16, 2015, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- Add the following to the end of Recommendation 1:

  "subject to the following condition:

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued)

A. That median access be provided to allow for a left hand turn off of St. Matthews Avenue into the property at 500 Madison Street, as agreed to by the appropriate City Department and it's Director, as well as the owner of the subject property."

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

HEARING SUMMARY

File:	DAOC 1/2015
Before:	Assiniboia Community Committee Councillor Gillingham, Chairperson Councillor Dobson Councillor Morantz
Public Hearing:	September 16, 2015 Council Building, 510 Main Street
Applicant:	The City of Winnipeg (Real Estate Division)
Premises Affected:	St. Matthews Avenue east of Kensington Street
Exhibits Filed:	1. Report from the Real Property Officer dated August 28, 2015 2. Inspection Report 3. Communication dated September 16, 2015, from Eugene Hyworon, DAAD Holdings Inc., with respect to the application 4. Plans (2) submitted by C. L. Chappell at the public hearing 5. Presentation submitted by Eugene Hyworon, Daad Holdings Inc., dated September 23, 2015, in opposition to the matter.

REPRESENTATIONS:

In Support:

John Zabudney, Manager, Real Estate Division, Planning, Property and Development Department
Marlene Haderer, Senior Negotiator, Real Estate Division, Planning, Property and Development Department

In Opposition:

Eugene Hyworon, DAAD Holdings Inc.
Demyan Hyworon
C. L. Chappell
Syd Thompson
Jeff Thompson

For Information:

Nil

For the City:

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

Exhibit "1" referred to in File DAOC 1/2015

ADMINISTRATIVE REPORT

Title: **DAOC 1/2015: ST. MATTHEWS AVENUE EAST OF KENSINGTON STREET – STREET OPENING, CLOSING AND REDEDICATION**

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

AUTHORIZATION

Author	Department Head	CFO	CAO/COO
K. Raban	M. Pittet	N/A	N/A

RECOMMENDATIONS

1. That the proposed street opening as shown on Misc. Plan No. 14897 and street closing as shown on Misc. Plan No. 14543/8 be approved and that the portions of the street proposed to be closed be declared surplus to the City's needs.

2. That the proposed street rededications as shown on Misc. Plan No. 14543/8 be approved.

3. That the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law(s) for submission to Council to effect the street opening and closing in accordance with Misc. Plan Nos. 14897 and 14543/8, 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.

4. 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 openings, closings and rededications require Council approval.

EXECUTIVE SUMMARY

The Polo Park Infrastructure Improvements Project forms part of the Public Works Department's 2013 Capital Budget approved by Council on January 29, 2013. The Project was separated into two stages.

The opening as shown on Misc. Plan No. 14897 forms part of Stage 1. It will regularize the width of the street at this location.

The opening as shown on Misc. Plan No. 14543/8 forms part of Stage 2 and comprises the expropriated land required for the extension of St. Matthews Avenue approved by Council on May 27, 2014.

This opening will render portions of the existing right of way redundant, thus necessitating the closing of St. Matthews Avenue as shown on Misc. Plan No. 14543/8. The closing will further allow the City to dispose of this land at that time.

The rededications as shown on Misc. Plan No. 14543/8 will provide for a consistent and uniform naming of these rights of way at the subject locations.

IMPLICATIONS OF THE RECOMMENDATIONS

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

Costs associated with the street opening, closing and rededication are the responsibility of the Public Works Department and are within the approved current and/or capital budget and considered immaterial in nature

HISTORY

At its meeting held on January 29, 2013, Council approved the Public Works Department's 2013 Capital Budget and 2014 to 2018 Five Year Forecast which included the Polo Park Infrastructure Improvements Project. Work on the Project was separated into two stages. Stage 1 comprised all works on the east side of St. James Street between Maroons Road and St. Matthews Avenue and St. Matthews Avenue east of St. James Street to Empress Street, to be completed in 2014. Stage 2 comprised all works from St. Matthews Avenue to south of Yukon Avenue and St. Matthews Avenue extension west of St. James Street to Century Street, to be completed in 2015.

At its meeting held on May 27, 2014, Council approved the expropriation of the land required for the extension of St. Matthews Avenue under Stage 2 of the Project, and instructed the City Solicitor to prepare the necessary by-law for submission to Council to effect the street openings as shown on Misc. Plan No. 14543/8.

Discussion:

The Planning, Property and Development Department is proceeding with an application on behalf of the Public Works Department to open and close the portions of St. Matthews Avenue so identified on the attached copies of Misc. Plan Nos. 14897 and 14543/8.

The re-alignment and opening of the St. Matthews extension as shown on Misc. Plan No. 14543/8 will render parts of the existing right of way redundant. Once legally closed, the Real Estate Division will be in position to dispose portions of this land to the adjoining property owners, either as compensation for expropriation proceedings or sale, or to the general public. The physical closing of the street will occur once the new extension of St. Matthews has been constructed and in use by the public.

The portion of St. Matthews Avenue lying between Madison Street and the Public Lane immediately to the west has been excluded from this closing application and will remain legally open as it currently provides approach access to the Petro Canada site at No. 490 Madison Street.

The portions of St. Matthews Avenue proposed to be closed were originally opened by numerous plans, all registered in the Winnipeg Land Titles Office: Plan 917 in March of 1905, Plan 921 in April of 1905, Plan 1347 in January of 1908, Plan 2608 in January of 1920, Plan 3945 in February of 1938, Plans 5841 and 5844 in April of 1954 and Plan 39198 in February of 2001.

The opening of the southeast corner of St. Matthews Avenue and Empress Street as shown on Misc. Plan No. 14897 is essentially a “housekeeping” matter. Part of the adjoining property to the east (Home Depot land) was expropriated and legally opened as St. Matthews Avenue in 2014 as part of Stage 1 of the Project. The subject property is City land and was never legally opened. Its opening as public street will rectify this oversight and regularize the width of St. Matthews at this corner location.

The rededication of part of St. Matthews Avenue as shown on Misc. Plan No. 14543/8 will provide a uniform designation to the projection of Madison Street adjoining Parcel “B”. Similarly, the rededication of Kensington Street will provide a uniform designation to the projection of St. Matthews Avenue east of the street opening at that location.

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., Shaw Cablesystems, Bell Canada, CNR, Rogers Communications, Telus and TeraSpan.

Imperial Oil, Fiber and Norscan did not respond to the request for comment on this application.

OURWINNIPEG POLICY ALIGNMENT

Sustainable Transportation is one of four strategies forming the basis of *OurWinnipeg*. Its emphasis is on moving people, goods and services in a way that is socially, environmentally and economically sustainable.

This strategy forms the policy framework for the *Transportation Master Plan* which provides the direction to refine and prioritize specific major street system improvements and supporting policies. While the *Transportation Master Plan* is a long term planning tool, it also includes the more immediate directions required to address the current needs of Winnipeg's transportation system including transportation system improvements.

The subject opening and closing aligns with the overall vision and direction of the *Transportation Master Plan.*

SUBMITTED BY

Department: Planning, Property and Development
Division: Land Development, Geomatics and Land Information Services
Prepared by: Bohdan Buyachok, Real Property Officer
Date: August 28, 2015
File No. DAOC 1/2015

Attachments

Appendix "A" - Administrative Approval
Appendix "B" - Misc. Plans and Aerial Views

O:\Reports Directive\Land Development, Geomatics and Land Information Services\Geomatics\DAOC 1.15 RPT_St. Matthews

V:\development applications\daoc\dev application2015\daoc1_2015\final_report\daoc1.15rpt

APPENDIX "A"

Administrative Approval

The proposal has been considered by all affected City departments and public utilities. There are no administrative objections to the street opening, closing or rededications.

Administrative Comments

The Plan Examination Branch has advised that the subject closing would create several concerns for the existing building at No. 499 Madison Street.

- Spatial Separation: The wall construction, fire resistance rating and allowable openings of a wall are dependent on the distance of that wall face to a property line, or if it faces a street or lane, to the centre line of the street or lane. Without knowing how the building was originally established, an analysis of the north wall of No. 499 Madison Street would have to be performed to see if any upgrading would be required to this wall.
- Egress/Exiting: The north wall appears to be approximately 0.7 ft. from the property line. It appears that two man doors are present along this wall and provide access to two separate tenants within this building. Again, without knowing how these doors or additional tenant spaces were established, or even if they were ever established under permit, it appears that 499 Madison Street has used the existing right of way as parking and access for numerous years. The subject closing would cut-off this access. The doors are a required means of egress/exiting from the building which would have to be maintained. However, the 0.7 ft. would not be sufficient to do so.
- Firefighter Access: The doors most likely provide firefighter access to the building.

The issues listed above would require analysis and potential design directions from an architect. Any building alterations would require a building permit including plans identifying all required remedial work.

Easements

The Engineering Division of the Water and Waste Department has identified an existing 250mm water main and a 750mm sewer running east/west along St. Matthews Avenue at 2.4m and 10.7m north of the south property line respectively. Part of the infrastructure is located within Parcel "A". Water and Waste will require a blanket easement over Parcel "A" in order to protect the water/sewer infrastructure as well as allow access to these facilities. Alternatively, the prospective purchaser of this Parcel would have to relocate these services at their own expense.

Centra Gas Manitoba Inc. has identified services within the closing area and will require a blanket easement over Parcels "A", "B", "C" and "D". Alternatively, if the City is not amenable to a blanket easement, Centra Gas requires a sketch prepared by a Manitoba Land Surveyor showing the exact

location of all gas facilities (gas main and service). Centra will then return an easement layout for the preparation of an easement plan.

Shaw Cablesystems has identified services within Parcels “A” and “B”. A blanket easement is required over Parcel “A” and a 3.1m wide easement over the westerly portion of Parcel “B”.

Both CNR and Bell Canada have identified fibre optic services delineated by Easement Plan No. 44867 WLTO located on either side of the subject closing adjoining Parcel “D”. They will require a new easement connecting the existing easement areas for their facilities.

No permanent structures will be allowed within the above noted easement areas.

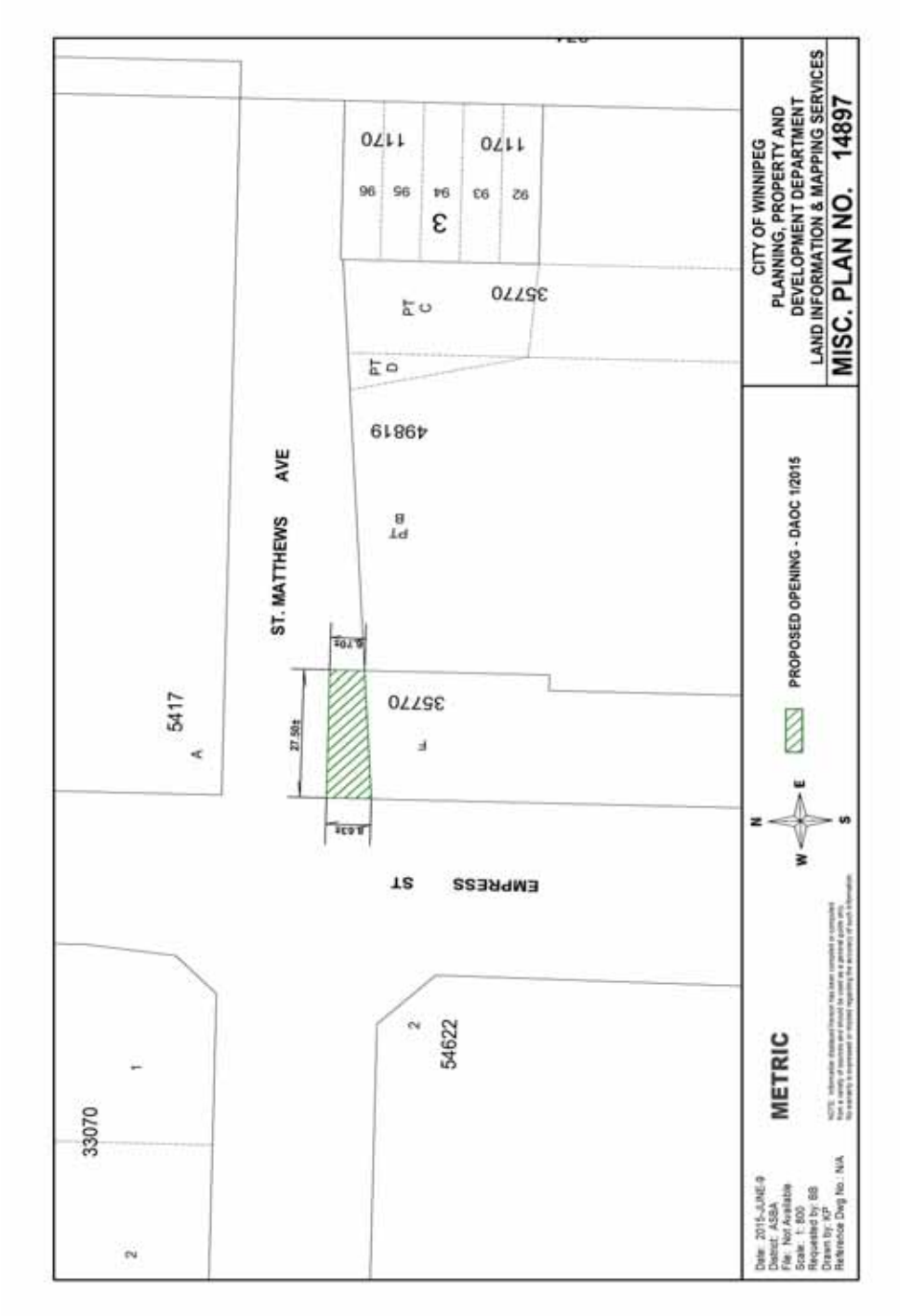
Any removal or relocation of existing facilities as a result of the proposed street closing will be at the expense of the applicant.

Transfer of Jurisdiction Over Public Rights-of-Way

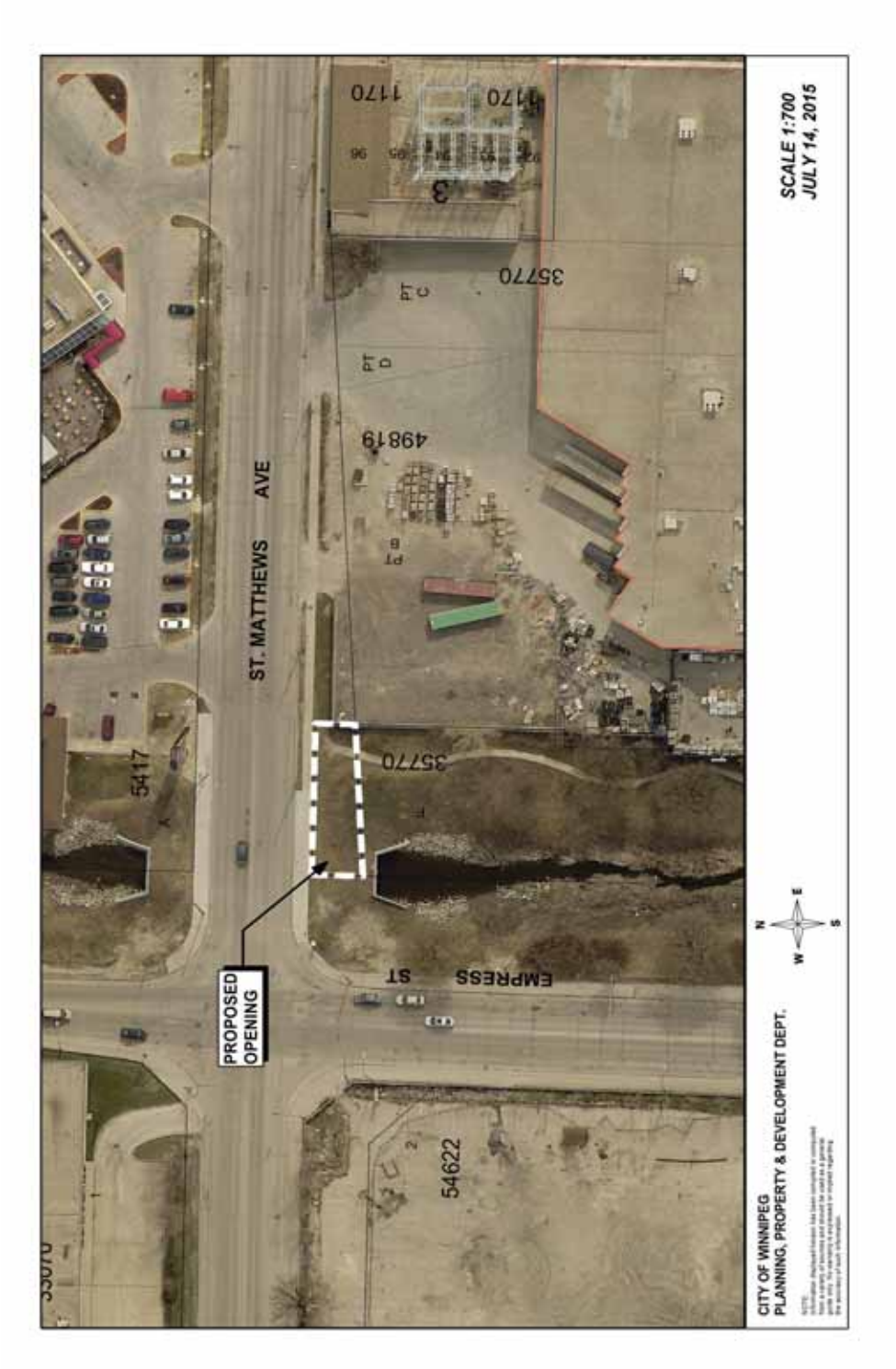
The street must be legally closed before it may be sold or transferred. Title to all public rights of way in Manitoba is vested in the name of the Province. The registration in the Winnipeg Land Titles Office of a closing by-law removes the public right of way status from the land and vests the ownership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

APPENDIX "B"

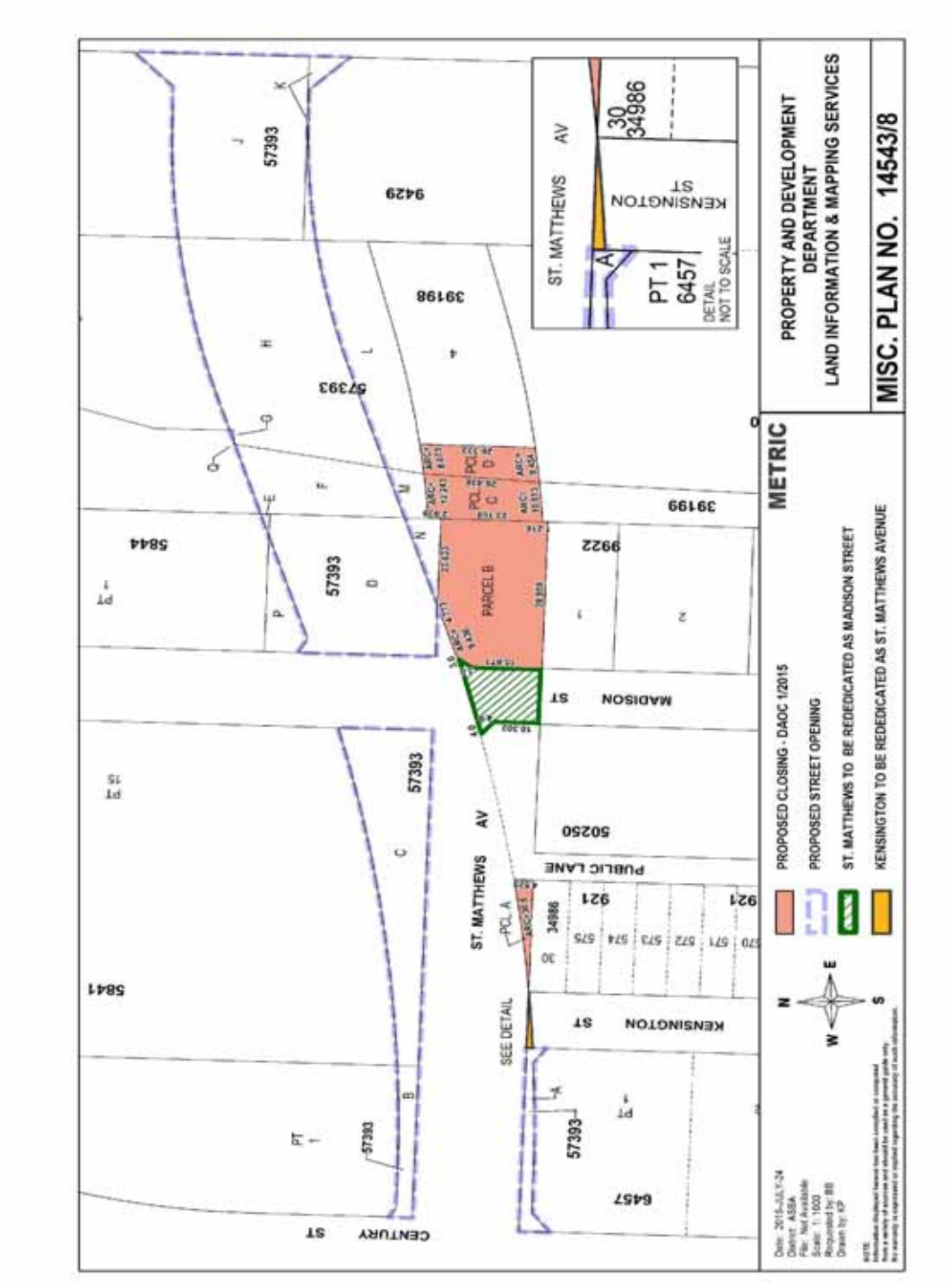
Miscellaneous Plan 14897



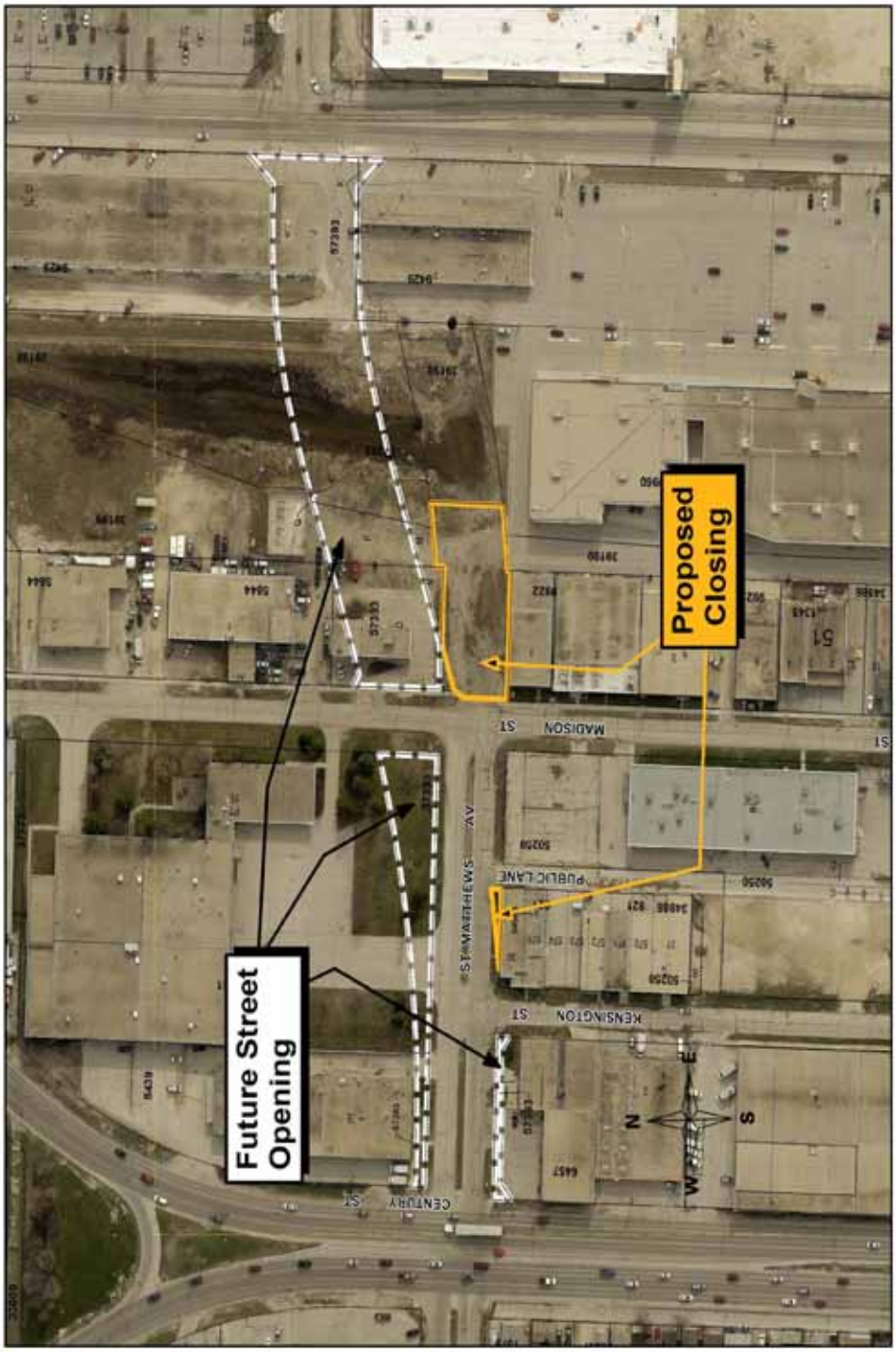
Aerial View:


ST. MATTHEWS AVE
EMPRESS ST
PROPOSED OPENING
5417
35770
49819
54622
1170
SCALE 1:700
JULY 14, 2015
CITY OF WINNIPEG
PLANNING, PROPERTY & DEVELOPMENT DEPT.

Miscellaneous Plan 14543/8



Aerial View:


Proposed Closing
Future Street Opening
MADISON ST
KENSINGTON ST
CENTURY ST
PUBLIC LANE
N
S