Minute No. 395
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 7, 2016

Item No. 4 **Closing – Public lane in the block bounded by McGillivray Boulevard, Post Street, Sigma Avenue and Dunkley Street (Charleswood-Tuxedo-Whyte Ridge Ward) File DAC 5/2016**

COUNCIL DECISION:

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

1. That the lane closing as shown on Misc. Plan No. 15020 be approved and that the land be declared surplus to the City's needs, subject to the following additional requirements:

   A. That the closing of the lane and subsequent sale of the land will have no adverse effect on the structures abutting the public right away that would cause such structures to be in non-compliance with any provincial or municipal laws, rules or codes of any nature; and

   B. That the applicant enters into a cross access agreement with the owner of No. 21 Sigma Avenue (Lots 10 and 11, Block 1, plan 2084 WLTO) for the provision of continued ingress egress to this property from Dunkley Street.

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 lane closing in accordance with Misc. Plan No. 15020, 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 implement the intent of the foregoing.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 7, 2016

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 8, 2016, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and the Assiniboia Community Committee, and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 7, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On May 10, 2016, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- Add the following to Recommendation 1:

  ", subject to the following additional requirements:

  A. That the closing of the lane and subsequent sale of the land will have no adverse effect on the structures abutting the public right away that would cause such structures to be in non-compliance with any provincial or municipal laws, rules or codes of any nature; and

  B. That the applicant enters into a cross access agreement with the owner of No. 21 Sigma Avenue (Lots 10 and 11, Block 1, plan 2084 WLTO) for the provision of continued ingress egress to this property from Dunkley Street."

and forwarded to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

PUBLIC HEARING SUMMARY

File:	DAC 5/2016
Before:	Assiniboia Community Committee Councillor Morantz, Chairperson Councillor Dobson Councillor Gillingham
Public Hearing:	May 10, 2016 Council Building, 510 Main Street
Applicant:	Affinity Architecture (on behalf of Servatech Management Ltd.)
Premises Affected:	public lane in the block bounded by McGillivray Boulevard, Post Street, Sigma Avenue and Dunkley Street
Exhibits Filed:	1. Report from the Real Property Officer dated April 22, 2016 2. Inspection Report 3. Communication dated May 10, 2016, from Cara Duncan with respect to the application

REPRESENTATIONS:

In Support:

Daniel Serhal
Sam El Haronni

In Opposition:
Nil

For Information:
Cara Duncan

For the City:

Mr. B. Buyachok, Planning, Property and Development Department, Development and Inspections Divisions, Geomatics Branch

Exhibit "1" referred to in File DAC 5/2016

ADMINISTRATIVE REPORT

Title: **DAC 5/2016: PROPOSED CLOSING OF THE PUBLIC LANE IN THE BLOCK BOUNDED BY MCGILLIVRAY BOULEVARD, POST STREET, SIGMA AVENUE AND DUNKLEY STREET**

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

AUTHORIZATION

Author	Department Head	CFO	CAO/COO
M. Pittet	J. Kiernan	N/A	N/A

RECOMMENDATIONS

1. That the proposed lane closing as shown on Misc. Plan No. 15020 be approved and that the land be declared surplus to the City's needs.

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 lane closing in accordance with Misc. Plan No. 15020, 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 openings and closings require Council approval.

EXECUTIVE SUMMARY

The acquisition of the proposed lane closing is to form an addition to the applicant's adjoining property for the development of a retail/commercial building at this location. Before the applicant can acquire the subject lane, it must be legally closed and declared surplus to the City's needs.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no policy, regulatory, environmental or human resource 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.

HISTORY

The Planning, Property and Development Department has received a request from Affinity Architecture, representing Servatech Management Ltd., to close and purchase the public lane so identified on the attached copy of Misc. Plan No. 15020.

Servatech has recently acquired the property fronting on McGillivray Boulevard as shown on the sketch. It is their intention to consolidate the right of way, once closed, with their existing holding for the proposed development of a retail/commercial building at this location. The closed lane will be used as a private access to the development.

The subject lane was opened by Plan No. 2084 and registered in the Winnipeg Land Titles Office in May of 1913. It is an unimproved right of way adjoining two residences and three vacant lots on Sigma Avenue. The lane provides rear yard access to No. 21 Sigma Avenue from a concrete approach on Dunkley Street. No. 5 Sigma Avenue has direct garage access from an approach on Post Street. The balance of the lots are presently vacant.

The applicant has contacted the adjoining property owners on Sigma Avenue informing them of the intention to close the subject lane and has advised that all have indicated they have no interest in the lane closing.

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, Shaw Cablesystems, Bell Canada, and Telus.

MTS Inc., Imperial Oil, Fiber, Norscan, Rogers Communications and TeraSpan did not respond to the request for comment on this application.

OURWINNIPEG POLICY ALIGNMENT

Section 235 of *The City of Winnipeg Charter* states that *"…public works, undertakings and development in the city must be consistent with Plan Winnipeg or any secondary plan."*

The subject closing does not contravene *OurWinnipeg* or the *Complete Communities Direction Strategy* and generally aligns with their overall vision and key directions.

SUBMITTED BY

Department: Planning, Property and Development
Division: Land Development, Geomatics and Land Information Services
Prepared by: Bohdan Buyachok, Real Property Officer
Date: April 22, 2016
File No. DAC 5/2016

Attachments

Appendix "A" – Administrative Approval/Comments

Appendix "B" – Miscellaneous Plan and Aerial View

O:\Reports Directive\Land Development, Geomatics and Land Information Services\Geomatics\DAC 5.16 RPT_Dunkley

V:\development applications\daoc\dev application2016\dac5_2016\final_report\dac5.16rpt

APPENDIX "A"

Administrative Approval

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

Administrative Comments

Geomatics Branch

Approval is subject to the applicant also making a development application to create a single lot or parcel in order to consolidate their adjoining property with the closed lane. The registration of the closing plan and by-law is to proceed concurrently and in series with the subdivision plan and by-law.

Urban Planning Division

A cross access agreement should be maintained in order to allow No. 21 Sigma Avenue access to their rear yard. Urban Planning will also review any further design concepts in relation to the existing uses when a development application is made.

Urban Planning further recommends that the applicant consult with the neighbouring property owners to inform them of their development plans and intent of the usage of the land once the lane is closed and consolidated.

Plan Examination

No. 5 Sigma Avenue has an outbuilding immediately adjacent to the property line at the existing lane. As the public lane becomes privatized, the limiting distance will be measured from the new property line instead of the center line of the right of way. Consequently, the outbuilding may be placed into non-compliance relative to fire resistance ratings required by Table 9.10.14.5.A of the Manitoba Building Code. This could be mitigated by a wall upgrade rating.

The applicant will be required to submit a complete calculation by a design professional of the north exposed building face area of the outbuilding at No. 5 Sigma Avenue including all window openings, doors, overhead doors, and wall construction, to ensure that the new property limit of the proposed public lane closing does not place the existing outbuilding at No. 5 Sigma Avenue in contravention of the Manitoba Building Code. The calculations are to be submitted to the Plan Examination Branch, under seal, for review and approval.

Transit Department

Transit has no objections provided that any changes or property clean-up within the unimproved lane can be mutually agreed to between the proponent and the adjoining property owners.

Local Improvements

Local Improvement Project 2614, Watermain, Term 1994 – 2003 (Assessment By-law No. 632094) for McGillivray Boulevard Property Roll No. 03066752000 has been paid out.

Easements

There are no services within the closing area. No easements will 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.

APPENDIX "B"

Aerial View of Subject Closing



Miscellaneous Plan

