Minute No. 442
Report – Executive Policy Committee – July 6, 2016

Item No. 9 **Closing – Part of James Avenue between Amy Street and Waterfront Drive**
(Point Douglas Ward)
File DAC 11/2016

COUNCIL DECISION:

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

1. That subject to Recommendation 2, the proposed street closing as shown on Misc. Plan No. 15048 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 street closing in accordance with Misc. Plan No. 15048, subject to:

   A. The approval of the conveyance of the land by Council or its delegated authority, and

   B. The applicant entering into a Purchase and Sales Agreement with the City or the applicant's assignee including a requirement that the applicant or the applicant's assignee fulfill the administrative conditions of approval outlined in Appendix "A" of this report.

3. That the land shown as "Proposed Closing" on Misc. Plan No. 15048 be added to the CentreVenture Asset Agreement.

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

Report – Executive Policy Committee – July 6, 2016

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 6, 2016, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 5, 2016, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted its recommendation to the Executive Policy Committee.

PUBLIC HEARING SUMMARY

File:	DAC 11/2016
Before:	Standing Policy Committee on Property and Development, Heritage and Downtown Development Councillor Orlikow, Chairperson Councillor Allard Councillor Gerbasi Councillor Wyatt
Public Hearing:	July 5, 2016 Council Building, 510 Main Street
Applicant:	CentreVenture Development Corporation (Johanna Chabluk)
Premises Affected:	Part of James Avenue between Amy Street and Waterfront Drive
Exhibits Filed:	1. Report from the Real Property Officer dated June 14, 2016 2. Inspection Report 3. Communication dated June 22, 2016, from Michelle and John Rutherford in opposition to the application 4. Communication dated July 4, 2016, from Jordan Langrell in opposition to the application

REPRESENTATIONS:

In Support:

Pablo Batista
Angela Mathieson, CentreVenture Development Corporation
Ross McGowan
Colin Neufeld
Lyle Stafford
Cindy Tugwell

In Opposition:

Sylvia Bock, Blue Moon
Gary Cyr
Jordan Langrell
John Rutherford
Michelle Rutherford

For Information:

Joelle Aylward
Angela Chambers
Joanne Cyr
Michel Fillion
Carrie Lund
Laurie Nealin
Bonnie Price
Larissa Solomon

For the City:

Mr. J. Kiernan, Director of Planning, Planning, Property and Development
Mr. M. Pittet, Manager of Land Development, Geomatics and Land Information Services, Planning, Property and Development Department
Mr. B. Buyachok, Real Property Officer, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 11/2016

ADMINISTRATIVE REPORT

Title: CLOSING OF PART OF JAMES AVENUE BETWEEN AMY STREET AND WATERFRONT DRIVE – FILE DAC 11/2016

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

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	J. Kiernan	n/a	D. McNeil

RECOMMENDATIONS

1. Subject to Recommendation 2, that the proposed street closing as shown on Misc. Plan No. 15048 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 street closing in accordance with Misc. Plan No. 15048, subject to:

   A. The approval of the conveyance of the land by Council or its delegated authority, and

   B. The applicant entering into a Purchase and Sales Agreement with the City or the applicant's assignee including a requirement that the applicant or the applicant's assignee fulfill the administrative conditions of approval outlined in Appendix "A" of this report.

3. That the land shown as "Proposed Closing" on Misc. Plan No. 15048 be added to the CentreVenture Asset Agreement.

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 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 Property and Development, Heritage and Downtown Development.

As per Section 3.1 (i) of the City Organization By-law, only Council can declare City-owned property as surplus.

EXECUTIVE SUMMARY

CentreVenture Development Corporation has received a proposal for the redevelopment of the James Avenue Pumping Station. Parcel "A" of the subject closing is required in order to accommodate the construction of a new building on the surface parking lot at this location. Parcel "B" is to form an addition to the existing holding at this address. In order for this to occur, the portion of the street must be legally closed and declared surplus to the City's needs prior to its addition to the CentreVenture Asset Agreement.

IMPLICATIONS OF THE RECOMMENDATIONS

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

All costs associated with the street closing are the responsibility of the applicant or its assignee. There are no financial implications for the City of Winnipeg.

HISTORY

The Planning, Property and Development Department has received a request from CentreVenture Development Corporation to close and acquire the portion of James Avenue so identified on the attached copy of Misc. Plan No. 15048.

The portion of the street, once closed, is to be incorporated into the redevelopment of the James Avenue Pumping Station site for a residential mixed-use project. Parcel "A" of the closing is required in order to accommodate the construction of a new building on the existing surface parking lot at 109 James Avenue. It currently provides approach access to this lot. Parcel "B" contains a mature tree as well as a monitoring gate chamber and City infrastructure. No structures or construction is contemplated. Planned enhancements include improvements to the sidewalk, boulevard and street as outlined in the North East Exchange District Engineering Study commissioned by the Public Works Department in 2014.

CentreVenture is the owner of Parcel "A", Plan 37235 WLTO as shown on the Misc. Plan No. 15048. The City of Winnipeg is the owner of Parcel "L", Plan 41300 WLTO which is currently

included in the CentreVenture Asset Agreement. CentreVenture will exercise their option on this parcel as well as the newly created right of way parcels, once closed.

James Avenue was opened by Plan Nos. 1 and/or 45 and registered in the Winnipeg Land Titles Office in September of 1872 and July of 1874 respectively. It is presently Old System land and will require a Real Property Application to bring it under the operation of the Torrens System.

FINANCIAL IMPACT

Financial Impact Statement **Date:** May 27, 2016

Project Name:

DAC 11/2016: Proposed Closing of Part of James Avenue between Amy Street and Waterfront Drive

COMMENTS:

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

It should be noted that a right of way redesign using the existing width could have incorporated metered parking on both sides of the street, in support of Section 2.2 of Council's endorsed Downtown Parking Strategy. It should also be noted that no development proposals have been received to date for either the James Avenue Pumping Station or 141 James at Lily Street.

"Original Signed By"
Mike McGinn, CPA, A
Manager of Finance

CONSULTATION

In preparing this report there was consultation with:

Internal Consultation:

Legal Services as to legal issues
Corporate Finance
Public Works
Water and Waste
Transit
Winnipeg Parking Authority

External Consultation:

Manitoba Hydro, Centra Gas, MTS Inc., Shaw Cablesystems, Bell Canada, Fiber and TeraSpan.

Imperial Oil, Norscan, Rogers Communications, Telus and Environment Canada did not respond to the request for comment on this proposal.

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: June 14, 2016
File No. DAC 11/2016

Attachments

Appendix "A" – Administrative Approval/Comments

Appendix "B" – Miscellaneous Plan and Aerial View

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V:\development applications\daoc\dev application2016\dac11_2016\final_report\dac 11.16rpt

APPENDIX "A"

Administrative Approval

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

Administrative Comments

Approval is subject to the following administrative comments:

Water and Waste Department

The Water and Waste Department has a shared interest with Environment Canada in the subject property, as there is existing infrastructure situated therein – both the above ground building and the underground piping. This infrastructure was formerly used as the James Avenue river level gauging point and is a crucial reference point for flood protection planning and for historical purposes. Further to this, Environment Canada will need to confirm that they no longer carry out river level gauging using the infrastructure on this property. If this is the case, the infrastructure may be considered for decommissioning.

This infrastructure, which runs under a portion of the subject property, consists of a large wood stave pipe, a stilling well, and a gate chamber. These structures will need to be abandoned if it is decided that the decommissioning of the entire site can occur. Note that this stilling well is a historic reference location on which all flood planning has been based.

IMPORTANT NOTE: The large wood stave pipe is linked with the aqueduct underdrain. Our Senior Project Engineer for Water Planning & Projects Delivery has provided comments regarding the importance of this infrastructure and how it pertains to this proposed closing:

> *There is a chamber (previously used by the City and Environment Canada for Red River elevation gauging) that exists within a portion of the subject land. This chamber is still used by the Water and Waste Department. It and the associated outfall pipe, which runs to the Red River, are used as a drain for the Shoal Lake Aqueduct underdrain system. This system is parallel to the actual Aqueduct, which is located along Pacific Ave, and acts as a groundwater drain (taking groundwater away from the Aqueduct) in order to prevent damage to the pipe's concrete due to sulphate deterioration.*

The above paragraph outlines how important this underdrain pipe is and as such, the Water and Waste Department will require that an easement agreement be put in place to protect this chamber and its outfall. (It is not clear whether an existing easement for the aqueduct underdrain already exists or not (SEE E-934)). This infrastructure MUST remain in place and our Department must have unrestricted 24/7 access to it.

ALSO NOTE: The underdrain pipe coming from Pacific Avenue to the chamber in the James Avenue right-of-way is in close proximity to the existing building. If there is any expansion of the existing pumping station building to the east (towards Waterfront Drive), it could be in conflict with this underdrain pipe.
FINAL NOTE: The Water and Waste Department will be engaging an engineering consultant later in the year. This consultant will be evaluating whether the discharge point for the underdrain can be in a different location other than the chamber on James Avenue. If a different location point is determined to be acceptable, the implementation of this alternative location would occur 2 years into the future, as a minimum estimate.

Additionally, any future building construction may need to be reviewed by the various planning branches within the Water and Waste Department as servicing of the site could be problematic, depending on the type, size, and capacity of the proposed building and the servicing that it would require.

Planning and Land Use

Planning and Land Use advises that the financial impact statement should acknowledge that a right of way redesign using the existing width could have incorporated metered parking on both sides of the street, in support of Section 2.2 of Council's endorsed Downtown Parking Strategy. It should also be noted that no development proposals have been received to date for either the James Avenue Pumping Station or 141 James at Lily Street.

Public Works Department

The Transportation Engineering Division of the Public Works Department advises that it does not support perpendicular parking within the proposed closing and/or along James Avenue.

The Urban Forestry Branch of the Public Works Department advises that a mature American elm, 82cm in diameter, and in good condition with an appraised value of $19,000.00 is located within Parcel "B" of the closing. A tree of this size and stature is considered to be very important and provides numerous benefits to the community, even more so considering it is located in the downtown area where it is difficult to establish trees. Any proposed work that is to occur within close proximity to the tree will need to incorporate strict tree protection guidelines. The applicant or its assignee will be required to enter into a conservation easement agreement with the City.

Winnipeg Parking Authority

As a result of the closing, the Winnipeg Parking Authority advises that it will be permanently losing one (1) metered parking space along with the permanent removal of nine (9) evening parking spaces (non-revenue generating at this time, due to no paid evening parking). Furthermore, if the parking lot is permanently closed for a mixed use development, there would be an increased requirement for parking in an area where there are limited parking options. The lost revenue from one metered space at this location is immaterial and there is no financial impact for the Winnipeg Parking Authority.

Easements

In addition to the easements noted above, Centra Gas Manitoba Inc. has identified services within the closing area and will require an easement for these existing facilities. No permanent structures will be allowed within the easement area.

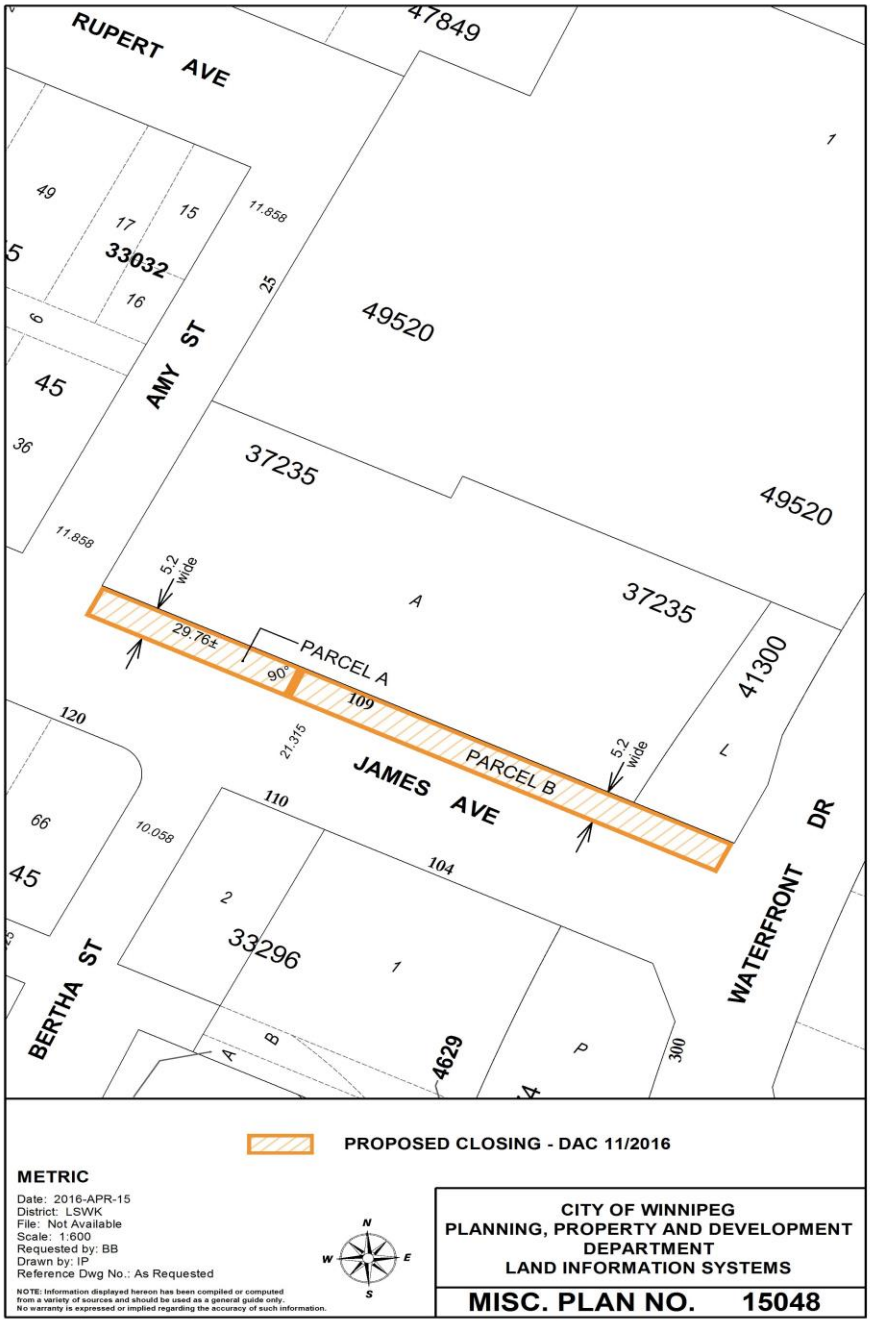
Any removal or relocation of existing facilities as a result of the proposed street closing will be at the expense of the applicant or its assignee.

Transfer of Jurisdiction Over Public Rights-of-Way

The street must be legally closed before it may be added to the CentreVenture Asset Agreement. 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



Aerial View of Subject Closing

