Minute No. 458
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 5, 2016

Item No. 5 **Closing – Part of Park Lane Avenue, East of King Edward Street (Point Douglas Ward)**
File DAC 13/2004 [c/r DASZ 13/2016]

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 subject to Recommendation 2, the proposed street closing as shown on Misc. Plan No. 12009/5 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. 12009/5, subject to approval of the conveyance of the land by Council or its delegated authority.

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

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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 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 the Lord Selkirk-West Kildonan Community Committee, 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 Lord Selkirk-West Kildonan Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 14, 2016, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service, and forwarded the matter to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

PUBLIC HEARING SUMMARY

File:	DAC 13/2004
Before:	Lord Selkirk-West Kildonan Community Committee Councillor Eadie, Chairperson Councillor Pagtakhan Councillor Sharma
Public Hearing:	June 14, 2016 Council Building, 510 Main Street
Applicant:	The City of Winnipeg (Director of Planning, Property and Development)
Premises Affected:	1911 King Edward Street and 200 Park Lane Avenue
Exhibits Filed:	1. Report from the Real Property Officer dated May 27, 2016 2. Inspection Report

REPRESENTATIONS:

In Support:
Joedi Pruden, Senior Negotiator, Planning, Property and Development Department
Gavin Wood

In Opposition:
Nil

For Information:
Nil

For the City:
Mr. G. Jasper, Land Development Engineer, Planning, Property and Development Department
Mr. F. Ojo, Planner, Planning, Property and Development Department
Mr. N. Yauk, Planner, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 13/2004

ADMINISTRATIVE REPORT

Title: **PROPOSED CLOSING OF PART OF PARK LANE AVENUE, EAST OF KING EDWARD STREET FOR INCORPORATION INTO DASZ 13/2016 – FILE DAC 13/2004**

Critical Path: **LORD SELKIRK – WEST KILDONAN 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. Subject to Recommendation 2, that the proposed street closing as shown on Misc. Plan No. 12009/5 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. 12009/5, subject to approval of the conveyance of the land by Council or its delegated authority.

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 subject closing and subsequent transfer to Allied Auto Ltd. forms part of the Settlement of Due Compensation for the expropriation of portions of their land for the Brooklands/Rosser Stormwater Retention Pond and Route 90 Widening Projects in 1974 and 1979 respectively. The closing is to be incorporated into the subdivision and rezoning of Allied Auto's adjoining property concurrently being considered under application DASZ 13/2016. In order for this to occur, the street must be legally closed and declared surplus to the City's needs.

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 Planning, Property and Development Department and are within the approved current budget. There are no financial implications for the City of Winnipeg.

HISTORY

In July of 1974, Council passed By-law No. 748/74 expropriating lands required for the Brooklands/Rosser Stormwater Retention Pond.

In June of 1979, Council passed By-law No. 2322/79 expropriating lands required for the Route 90 Widening Project.

Allied Auto Parts Ltd. property formed part of the land assembly requirements for the above noted expropriations. Negotiations between Allied Auto and the City of Winnipeg for due compensation were unsuccessful and the matter was referred to the Court of Queen's Bench for resolution. Through a mediation process, a Memorandum of Settlement was achieved subject to the following administrative recommendations approved by the Executive Policy Committee at its "in camera" meeting held on December 17, 2003:

- Council's enactment of a street closing by-law and declaration of the land as being surplus to the City's needs. The closing is identified on the attached copy of Misc. Plan No. 12009.
- Council's enactment of a by-law rezoning the closed street and the adjacent Allied Auto Parts Ltd. property to M3 (Industrial). The rezoning is identified on the attached copy of Misc. Plan No. 12131.
- Council's approval of any subdivisions required to implement the rezoning.

Discussion

The Planning, Property and Development Department is proceeding with an application to close the portion of Park Lane Avenue so identified on the attached copy of Misc. Plan No. 12009/5. The closed street is to be incorporated into DASZ 13/2016, an application to subdivide and rezone the adjoining property as part of a condition of the Settlement of Due Compensation approved by the Executive Policy Committee on December 17, 2003 for the expropriation of portions of Allied Auto Ltd. land for the Brooklands/Rosser Stormwater Retention Pond and Route 90 Widening Projects in 1974 and 1979 respectively. The attached Misc. Plan No. 12009/5 is an updated version of Misc. Plan Nos. 12009 and 12131 referenced in EPC's approval.

After protracted negotiations for due compensation for the expropriated lands, a settlement was eventually reached in 2004. The subject closing application was subsequently circulated to Civic Departments and Public Utilities for comment in July of that year. However, the application was held in abeyance due to a death in the family of the proprietors of Allied Auto Ltd. as well as a pending internal resolution of ownership of the right of way, once closed and transferred. The issue has now been resolved, and the Real Estate Division is again proceeding with the closing and subdivision/rezoning.

Allied Auto's present "wrecking yard" land use constitutes a legal non-conforming use under the existing M1 Industrial zoning. The closed street to be conveyed to Allied cannot be used for an expansion of their present legal non-conforming use. A closed street assumes the zoning designation of the adjoining property. Under the current zoning, the north half of the proposed street closing would take on a PR1 Parks and Recreation District Zoning while the south half would take on a M1 Industrial District Zoning.

As part of the negotiated settlement, the Real Estate Division is responsible for the rezoning application and has written authority from Allied Auto to act on its behalf. The closed street along with the adjoining Allied Auto property will be rezoned to an M3 zoning district to allow the current use of the land as a permitted use. Allied will enter into a Zoning Agreement restricting the use of the rezoned property to a "wrecking yard" only and will then be able to use the land as planned.

The subject right of way was opened as Vopni Avenue by Plan No. 1011 and registered in the Winnipeg Land Titles Office in December of 1905. As a result of the Route 90 Widening Project and underpass construction, access to King Edward Street from Vopni Avenue was terminated and re-routed. In 1981, Council passed By-law No. 2912/81 changing the name of Vopni Avenue to its present designation.

The portion of the street proposed to be closed is used as part of the parking area for Allied Auto Ltd. customers and employees. It serves no other apparent public 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., Shaw Cablesystems, Fiber and Bell Canada.

Imperial Oil, Norscan, TeraSpan, Rogers Communications and Telus 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:	May 27, 2016
File No.	DAC 13/2004

Attachments

Appendix "A" – Administrative Approval/Comments

Appendix "B" – Miscellaneous Plans and Aerial View

O:\Reports Directive\Land Development, Geomatics and Land Information Services\Geomatics\DAC 13.04 RPT_Park Lane

V:\development applications\daoc\dev application2004\dac13_2004\final_report\dac13.04rpt

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

Water and Waste Department

The Water and Waste Department has identified a City owned 250mm wastewater sewer main within the area of the subject closing. Provided that there are no other private sewer service connections (other than those owned by Allied Auto Parts Ltd.) to this sewer main, the Water and Waste Department requires that as a condition of approval for the closing and sale of this land, the owner of No. 1911 King Edward Street will be responsible to take over ownership of this existing sewer infrastructure.

This would include both sections of the sewer main, starting at the most westerly manhole (at the end of the line) and up to the 3rd manhole (Manhole ID: S-MH00003426). The owner would then be responsible for the 2 most westerly manholes and both sections of sewer main up to, but not including the 3rd manhole (Manhole ID: S-MH00003426), which would remain City owned. The above outlined infrastructure would become a private sewer service and wholly the responsibility of the owner of No. 1911 King Edward Street.

Easements

Manitoba Hydro, Centra Gas Manitoba Inc., MTS Inc. and The Winnipeg School Division (C/A Fiber) have all identified services within the closing area.

All utilities as well as the School Division will require easements for these existing facilities. No permanent structures will be allowed within the easement areas.

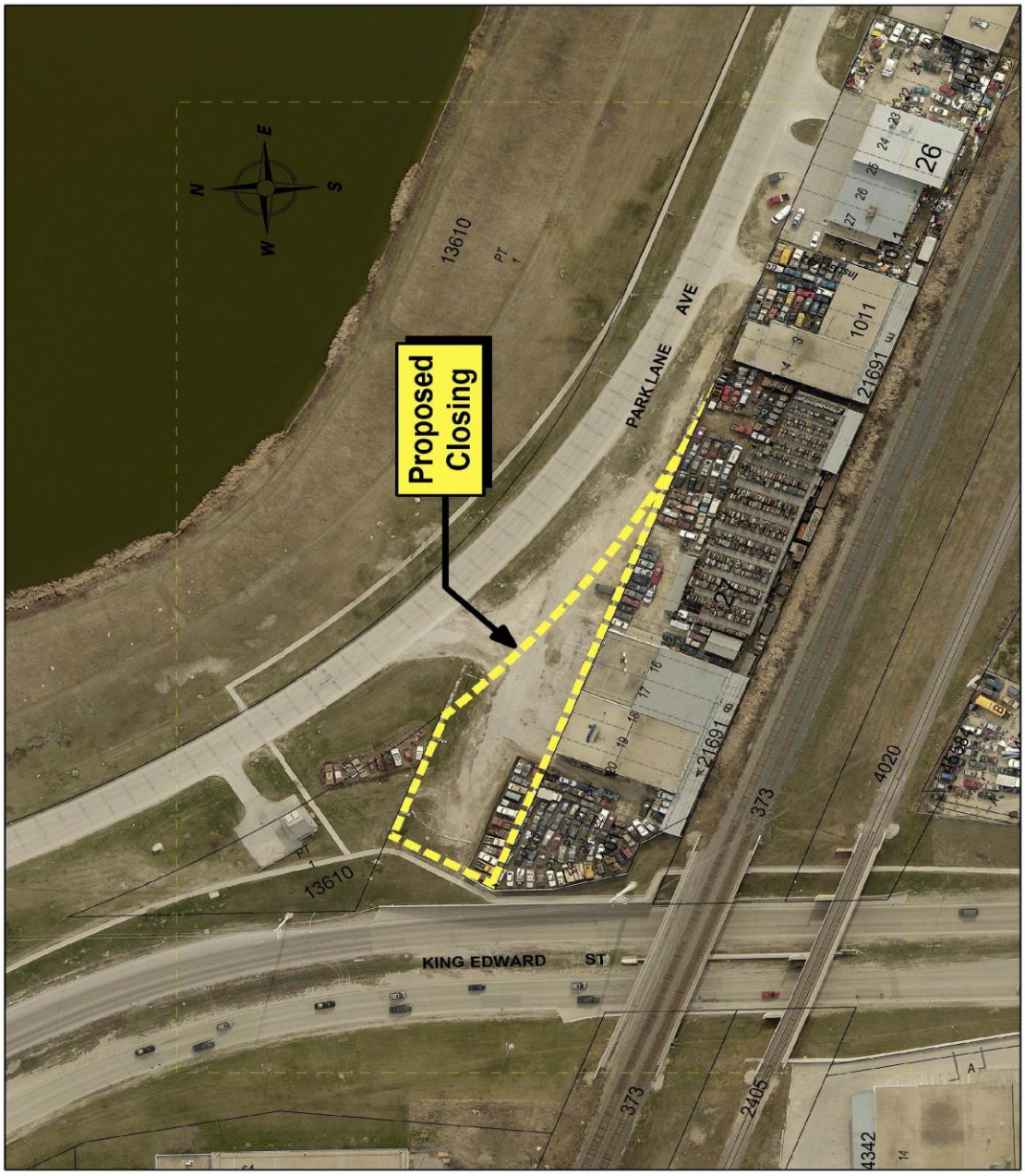
Any removal or relocation of existing facilities as a result of the proposed street closing will be at the expense of the applicant.

Transfer of Jurisdiction Over Public Rights-of-Way

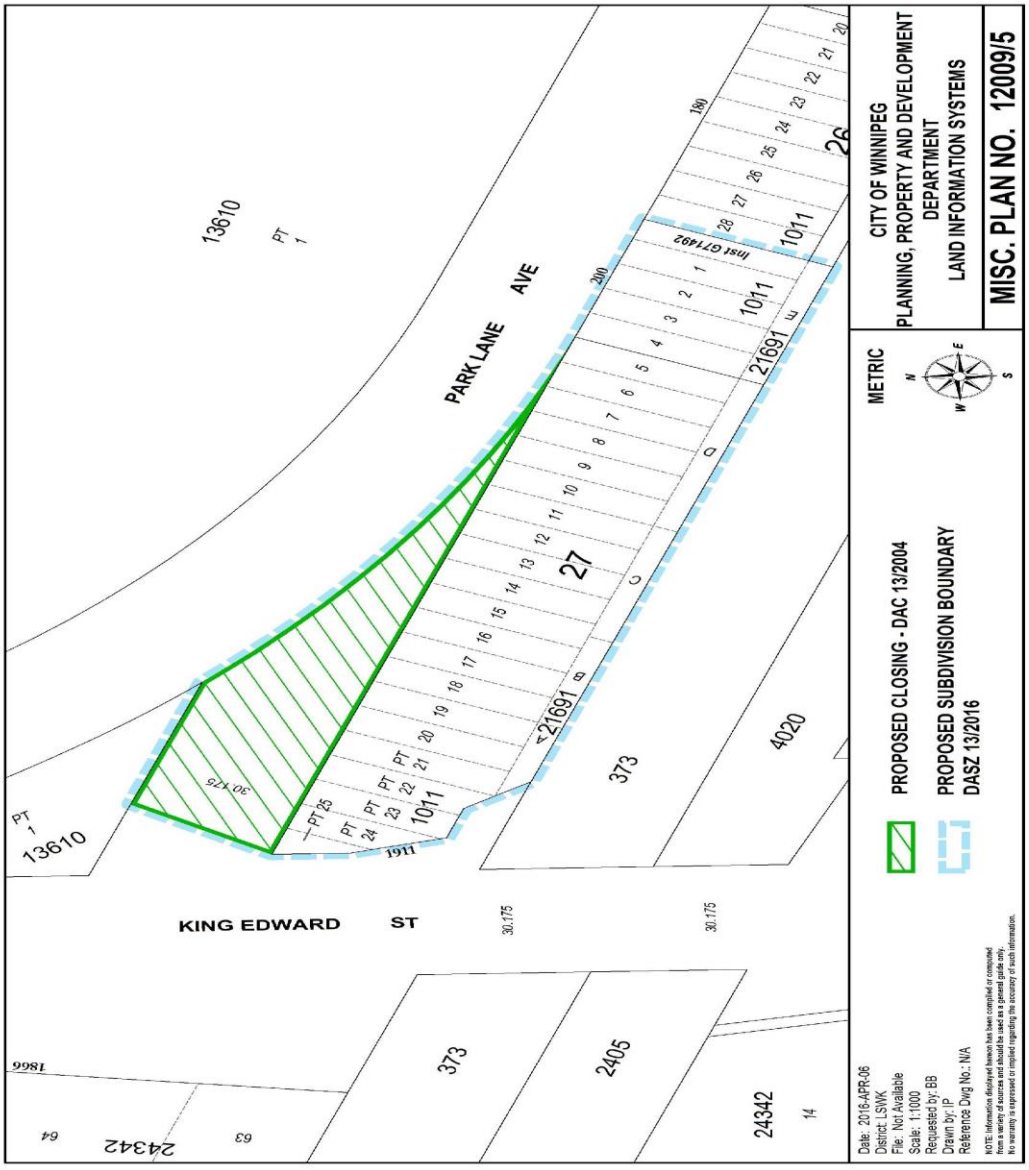
The street must be legally closed before it may be incorporated into the subdivision of the adjoining property. Title to all public rights of way in Manitoba is vested in the name of the Province. The registration in the Winnipeg Land Titles Office of a closing by-law removes the public right of way 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"

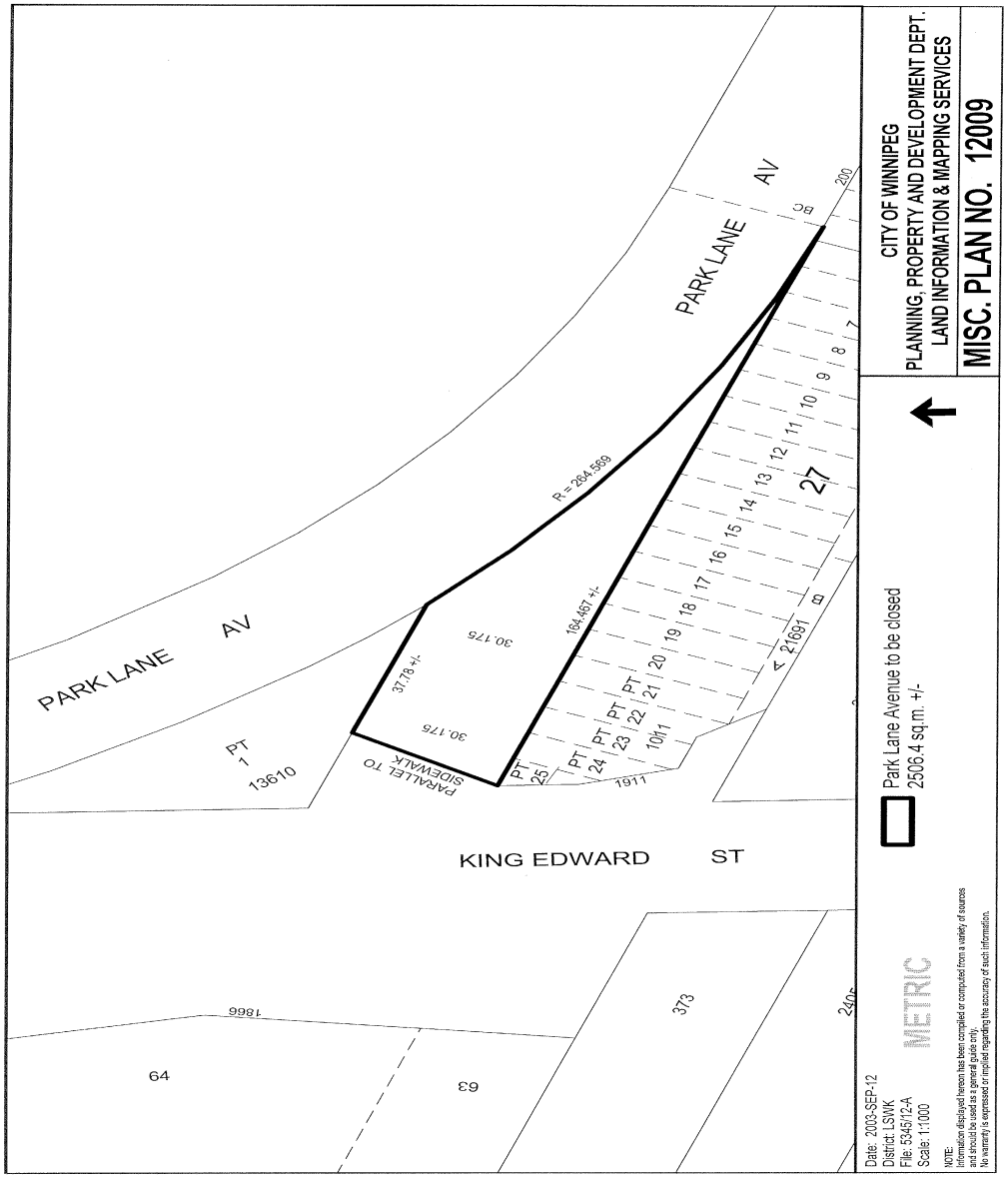
Aerial View of Subject Closing



Miscellaneous Plan No. 12009/5



Misc. Plan No. 12009: EPC Decision of December 17, 2003



Misc. Plan No. 12131: EPC Decision of December 17, 2003

