Agenda – Council – July 19, 2017

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 4, 2017

Item No. 12 Expropriation of Lands – Southwest Rapid Transit (Stage 2) and Pembina Highway Underpass Project

STANDING COMMITTEE RECOMMENDATION:

On July 12, 2017, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That the Director of Legal Services / City Solicitor be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire the land identified on Misc. Plan 14307/10, and required by the City for the Southwest Rapid Transitway (Stage 2) and Pembina Highway Underpass Project.

2. Subject to Council's confirmation of the proposed expropriation, that the land identified on Misc. Plan 14307/10, acquired for the purpose of the Southwest Rapid Transitway (Stage 2) and Pembina Highway Underpass Project, be approved to be opened for public right-of-way.

3. If required, 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 openings as required for the Project.

4. That the Proper Officers of the City be authorized to do all things necessary to effect the foregoing described within, including demolition of any improvements, execution of any necessary documents and preparation of any necessary by-laws and any intermediary steps that may be required to have the lands opened for public right-of-way.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 4, 2017

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 12, 2017, 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 4, 2017, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Expropriation of Lands – Southwest Rapid Transit (Stage 2) and Pembina Highway Underpass Project

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development
Executive Policy Committee
Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Lucyk	J. Kiernan	M. Ruta	D. McNeil

EXECUTIVE SUMMARY

The owner of the property and developer (the "Developer") on the south side of Taylor Avenue, west of Harrow Street, applied for a subdivision and rezoning that was approved by Council in 2013 – DASZ 4/2013. Council subsequently approved the by-law associated with the subdivision and rezoning in 2014. However, the by-law does not come into force until the Plan of Subdivision is registered at the Winnipeg Land Titles Office.

The Developer has been unable to register the Plan of Subdivision since the by-law was passed. As a result, the Developer has requested several time extensions for the by-law, which have been approved by Council.

The delay associated with the registration of the Plan of Subdivision has affected a major capital project – the Southwest Rapid Transitway (Stage 2) and Pembina Highway Underpass Project. One of the conditions imposed by Council for DASZ 4/2013 was for the Developer to dedicate a parcel of land to the City, the "Street Widening Parcel" identified on Misc. Plan 14307/10. The Street Widening Parcel is required for the construction of a CN Rail bridge and active transportation path.

The Public Service is recommending to Council that the Street Widening Parcel be expropriated to ensure no further delays for the transfer of ownership. The expropriation should not cause any delays to the Project, since the Developer has granted the City a Consent to Enter to Construct Agreement.

RECOMMENDATIONS

1. That the Director of Legal Services / City Solicitor be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire the land identified on Misc. Plan 14307/10, and required by the City for the Southwest Rapid Transitway (Stage 2) and Pembina Highway Underpass Project.

2. Subject to Council's confirmation of the proposed expropriation, that the land identified on Misc. Plan 14307/10, acquired for the purpose of the Southwest Rapid Transitway (Stage 2) and Pembina Highway Underpass Project, be approved to be opened for public right-of-way.

3. If required, 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 openings as required for the Project.

4. That the proper officers of the City be authorized to do all things necessary to effect the foregoing described within, including demolition of any improvements, execution of any necessary documents and preparation of any necessary by-laws and any intermediary steps that may be required to have the lands opened for public right-of-way.

REASON FOR THE REPORT

According to the "Policy for the Sale, Acquisition, Rental, Leasing and Management of Properties", Council approval is required to approve all land acquisition programs and pass expropriation by-laws.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no regulatory, environmental or human resource implications associated with this report.

Due to the expropriation, the City will be responsible to compensate the Developer for the market value of the land taken, and other costs in accordance with *The Expropriation Act*. Offers of Compensation are provided to expropriated owners once the expropriation is confirmed by Council.

The expropriation will enable the City to take ownership of the Street Widening Parcel and not cause the Project to be subject to further delays for the transfer of ownership.

HISTORY/DISCUSSION

On May 29, 2013, Council approved a subdivision and rezoning for land located on the south side of Taylor Avenue between Wilton Street and 1260 Taylor under File DASZ 4/2013. As a condition of approval, the Developer was required to enter into a servicing agreement with the City containing all the conditions outlined in Schedule B, the Report from the Administrative Coordinating Group. Condition A.1 of Schedule B stated:

"The Developer shall, at no expense to the City, dedicate and open as right-of-way the land shown as "Street Widening" on Schedule "C" contained herein, all as determined by and to the satisfaction of the Director of Public Works."

Schedule "C", noted above, is included in the addendum of this report and the "Street Widening Parcel" is identified on Misc. Plan 14307/10.

On April 30, 2014, Council approved the by-law associated with DASZ 4/2013 (By-law 52/2014). However, By-law 52/2014 does not come into force until the Plan of Subdivision is registered at the Winnipeg Land Titles Office. Council approval provided one year for enactment of the by-law, otherwise the by-law would expire, unless a time extension was approved. The Public Service released the mylars and related documents, in trust, to the Developer in December 2014 on the condition that the Developer registers the mylars/documents at the Winnipeg Land Titles Office. The Developer failed to fulfill these trust conditions.

Due to complications associated with the registration of the Plan of Subdivision at the Winnipeg Land Titles Office, the Developer requested a time extension. Developers requesting time extensions are relatively common, and as such, the Public Service recommended (and Council approved) a time extension to complete the registrations associated with DASZ 4/2013 until September 30, 2016.

The Developer was unable to meet the September 30, 2016 deadline and requested a further extension until December 31, 2016, which was approved by Council.

On March 22, 2017, Council approved a third extension of time until April 30, 2017.

To date, the Developer has not met the conditions for registration at the Winnipeg Land Titles Office and will require another extension (4th extension) in order to register the Plan of Subdivision.

The failure to register the necessary documents to enact By-law 52/2014 has affected a major capital project – the Southwest Rapid Transitway (Stage 2) and Pembina Highway Underpass Project. The Street Widening Parcel noted in Schedule C and Misc. Plan 14307/10 is required for the Project and should have been dedicated to the City through the registration of the Plan of Subdivision. The Street Widening Parcel is necessary for the construction of a CN Rail bridge and active transportation pathway.

Due to the delay in registering the Plan of Subdivision and the imminent construction on the Street Widening Parcel, the Public Service is recommending expropriation. Expropriation of the Street Widening Parcel will ensure the City takes ownership of a property which will include City infrastructure.

It is not expected that the expropriation will cause any time delays to the Project. In May 2016, the Developer granted a Consent to Enter to Construct Agreement to the City, which allows for construction of Project works in advance of City ownership.

Minor construction has occurred on the site prior to the proposed expropriation (e.g. site preparation). It is not expected that the minor construction will have any significant impact on the valuation of the expropriated property. However, additional delays in the acquisition of this land will increase the value of the lands as construction progresses in this area. The market value of the expropriated property is based on the date that the Declaration of Expropriation is approved by Council and the by-law is passed (the expropriation by-law is concurrent with this report).

The proposed taking will represent the second expropriation on the Developer's property. In 2015, Council approved the expropriation of lands required for the Southwest Rapid Transitway (Stage 2) and Pembina Highway Underpass Project, and the Developer's property was identified as Holdings #30 & #39 in Schedule "A" of the appendix of the 2015 report. A consolidated site plan of the first expropriation, identified as Misc. Plan 14759/4, is included in the addendum of this report.

FINANCIAL IMPACT

Financial Impact Statement

Date: April 25, 2017

Project Name:

Expropriation of Lands – Southwest Rapid Transit (Stage 2) and Pembina Highway Underpass Project

COMMENTS:

While there are no direct financial implications associated with the initiation of expropriation proceedings, doing so will ensure that the City will acquire the property and incur settlement and ancillary costs. Such costs are not reasonably estimable at this time.

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

CONSULTATION

This Report has been prepared in consultation with:

Legal Services Department (as to legal issues)

Transit Department

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg and Complete Communities support the integration of transportation and land use planning, and a transportation network that supports the urban structure and the concept of complete communities.

The Transportation Master Plan (TMP) was developed in alignment with OurWinnipeg and Complete Communities. The TMP identifies that rapid transit is necessary for Winnipeg's ongoing growth. It is needed to ensure that residents are provided with a viable alternative to the automobile, in order to reduce existing and future road congestion and to build a transportation system that is capable of serving future generations. Rapid transit is also essential for shaping land use in a manner that achieves the objectives of OurWinnipeg and Complete Communities.

The TMP identifies that the Southwest Corridor will serve existing residential areas in southwest Winnipeg (having a total population of 75,000), the 30,000 students and staff at the University of Manitoba, the new stadium complex at the University of Manitoba, the developing Waverley West area (with a planned population of 30,000 and new employment centres by 2031), as well as the TOD development underway in the Fort Rouge Yards, and similar development proposed for the Southwood Golf Course lands, the former Sugar Beet lands near Pembina & Bishop Grandin, and the Parker lands west of Pembina and south of the CN main line.

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate
Prepared by: Gord Chappell, Senior Negotiator
Date: April 25, 2017
File No: 32/4096/A V6

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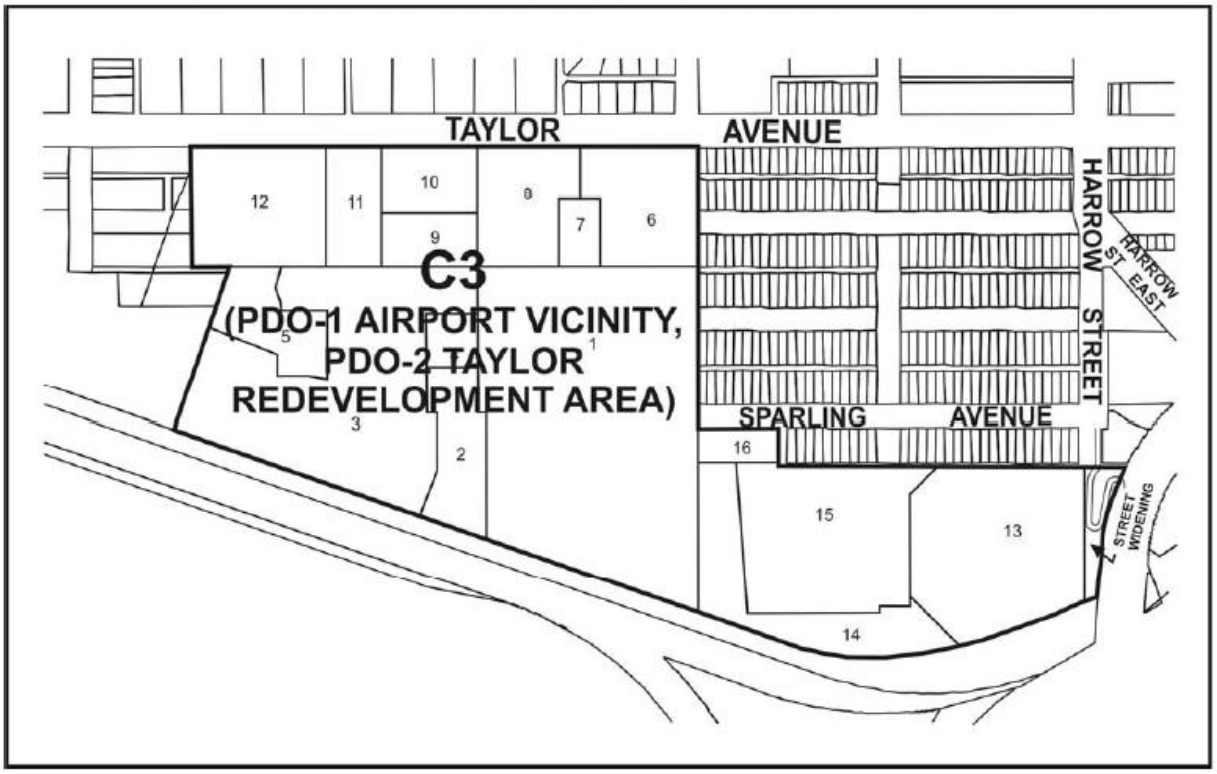
Attachments:

Appendix A – Schedule "C" of DASZ 4/2013
Appendix B – Misc. Plan 14307/10
Appendix C – Misc. Plan 14759/4

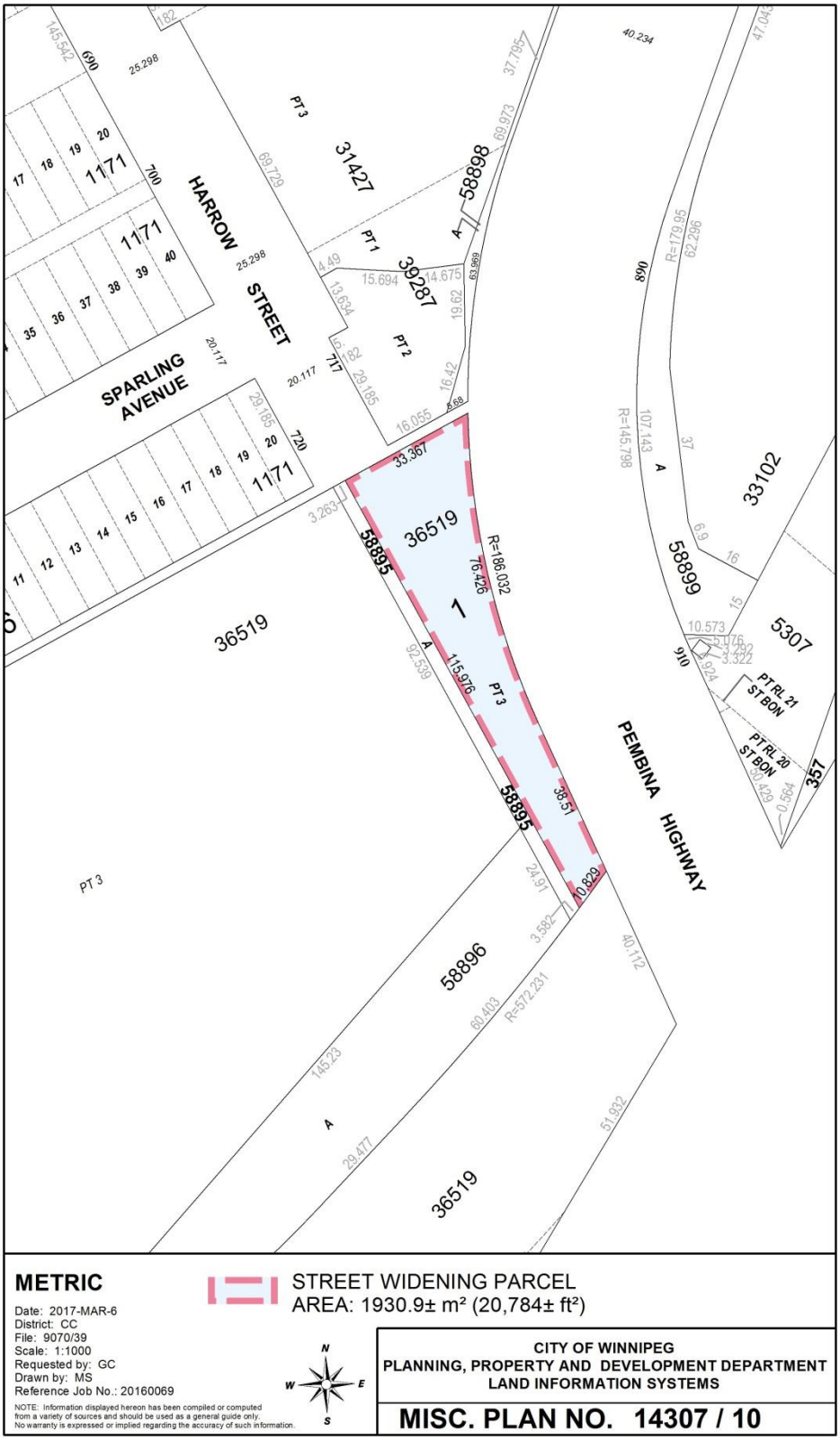
Appendix A

SCHEDULE C

Street Widening Map



Appendix B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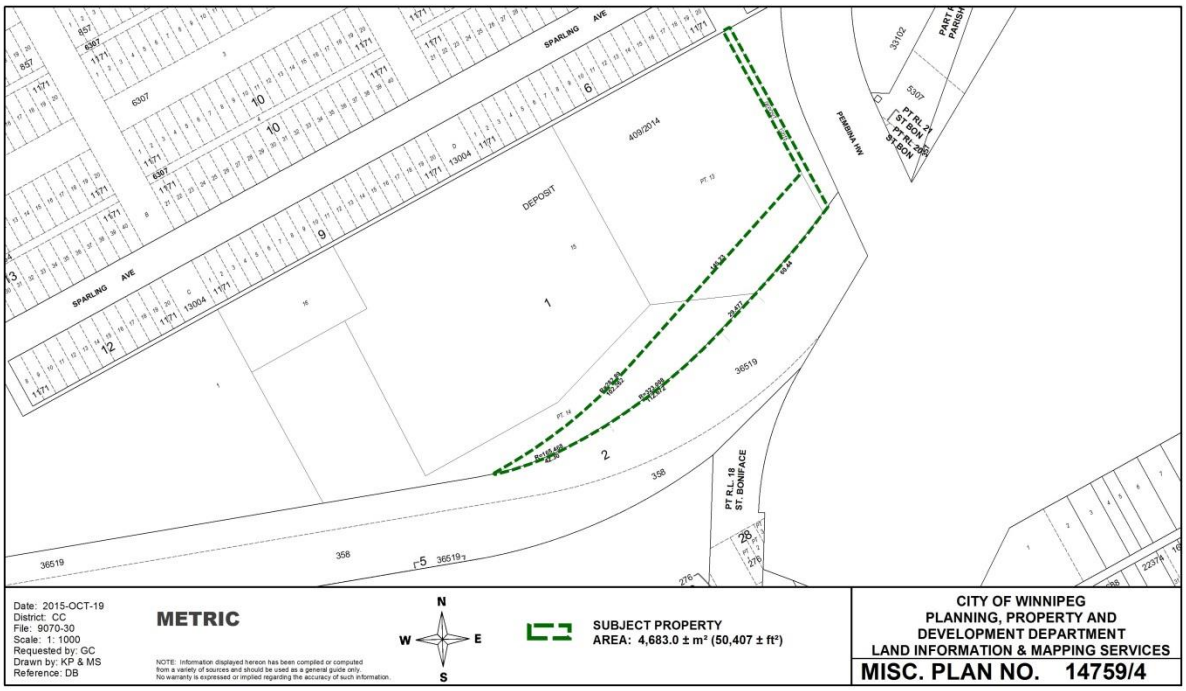
SPARLING AVENUE
PEMBINA HIGHWAY
36519
58895
58896
58899
33102
5307
31427
39287
58898
1171
PT 3
PT 1
PT 2
PT RL 21 ST BON
PT RL 20 ST BON
METRIC
Date: 2017-MAR-6
District: CC
File: 9070/39
Scale: 1:1000
Requested by: GC
Drawn by: MS
Reference Job No.: 20160069
NOTE: Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.
STREET WIDENING PARCEL
AREA: 1930.9± m² (20,784± ft²)
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION SYSTEMS
MISC. PLAN NO. 14307 / 10

Appendix C


SPARLING AVE
DEPOSIT
PEMBINA HW
PT R.L. 18
ST. BONIFACE
Date: 2015-OCT-19
District: CC
File: 9070-30
Scale: 1: 1000
Requested by: GC
Drawn by: KP & MS
Reference: DB
METRIC
NOTE: Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.
N
W
E
S
SUBJECT PROPERTY
AREA: 4,683.0 ± m² (50,407 ± ft²)
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 14759/4