Minute No. 330
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 11, 2017

Item No. 13 **Opening and Closing of the Public Lane between Kensington and Madison Streets, North of Silver Avenue (St. James-Brooklands-Weston Ward) File DAOC 2/2017**

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 public lane opening and closing as shown on Misc. Plan No. 13096/5 be approved and that the portion of the lane proposed to be closed be declared surplus to the City's needs.

2. That the Director of Legal Services and City Solicitor be instructed to prepare and bring directly to Council for enactment a by-law to facilitate the public lane opening and closing in accordance with Misc. Plan No. 13096/5 (attached as Appendix "B"), 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, which agreement shall include, among other things, a requirement that the applicant fulfill the administrative conditions of approval outlined in Appendix "A" of this report.

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 – April 11, 2017

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.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 19, 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 April 11, 2017, 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 April 6, 2017, the Assiniboia 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:	DAOC 2/2017
Before:	Assiniboia Community Committee Councillor Gillingham Councillor Dobson
Public Hearing:	April 6, 2017 Council Building, 510 Main Street
Applicant:	Long Plain First Nation (Mr. James Kacki)
Premises Affected:	Public Lane between Kensington and Madison Streets, North of Silver Avenue
Exhibits Filed:	1. Report from the Real Property Officer dated March 27, 2017 2. Inspection Report

REPRESENTATIONS:

In Support:

James Kacki
David Thomas

In Opposition:

Nil

For Information:

Stephen Smith

For the City:

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

ADMINISTRATIVE REPORT

Title: **PROPOSED OPENING AND CLOSING OF THE PUBLIC LANE BETWEEN KENSINGTON AND MADISON STREETS, NORTH OF SILVER AVENUE – FILE DAOC 2/2017**

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
M. Pittet	J. Kiernan		

EXECUTIVE SUMMARY

The subject lane closing is to form an addition to Long Plain First Nation's adjoining property in order to accommodate the development of a conference centre/commercial enterprise at this location. In order for this to occur, the lane must be legally closed and declared surplus to the City's needs prior to its sale.

As a result of the closing, a new lane diversion providing access to Madison Avenue will be required. The opening will further provide continued ingress/egress to the properties fronting on Kensington Street.

RECOMMENDATIONS

1. Subject to Recommendation 2, that the proposed public lane opening and closing as shown on Misc. Plan No. 13096/5 be approved and that the portion of the lane proposed to be closed be declared surplus to the City's needs.

2. That the Director of Legal Services and City Solicitor be instructed to prepare and bring directly to Council for enactment a by-law to facilitate the public lane opening and closing in accordance with Misc. Plan No. 13096/5 (attached as Appendix "B"), 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, which agreement shall include, among other things, a requirement that the applicant fulfill the administrative conditions of approval outlined in Appendix "A" of this report.

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

REASON FOR THE REPORT

All street and lane closings must be considered by the Community Committee, as do all street and lane openings which have not previously received approval by Council or a Standing Committee of Council.

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

IMPLICATIONS OF THE RECOMMENDATIONS

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

All costs associated with the public lane opening and closing are the responsibility of the applicant. There are no financial implications for the City of Winnipeg.

HISTORY/DISCUSSION

On November 13, 2007, the Assiniboia Community Committee considered an application under File DAOC 2/2007 submitted by Long Plain First Nation for the closing of a portion of the north/south public lane between Silver and St. Matthews Avenues and the opening of new lane outlets to Madison and Kensington Streets adjoining their holdings. The Committee laid the matter over to subsequent public meetings held on December 11, 2007 and March 11, 2008. At the latter meeting, the application was rejected by the Committee because of opposition to the proposal by the area residents over concerns regarding truck accessibility to their business loading docks. Long Plain First Nation withdrew their application under File DAOC 2/2007.

In April of 2008, Long Plain First Nation submitted a new opening/closing application processed under File DAOC 2/2008 as shown on the attached copy of Misc. Plan No. 13096/3. The new application contained amendments to the opening component, specifically addressing the delivery vehicle accessibility concerns of the area business owners. The application was approved by the Assiniboia Community Committee on May 6, 2008. On June 18, 2008, Council concurred in the recommendation of the Standing Policy Committee on Property and Development and approved the public lane opening/closing. The openings and closing were subsequently registered in the Winnipeg Land Titles Office in July of 2010 as Plan No. 50250.

Discussion

The Planning, Property and Development Department has received a request from Ayshkum Engineering Inc., representing Long Plain First Nation Trust, to open and close the public lane so identified on the attached copy of Misc. Plan No. 13096/5.

LPFNT Landholding Inc. is the owner of the adjoining property as shown on the sketch. It is their intention to acquire the lane, once closed, as an addition to their existing holdings for the development of a conference centre/commercial enterprise.

Ayshkum has advised that the location of the lane diversions originally approved under File DAOC 2/2008 were determined prior to the final building footprint design and before the associated site development plan layout had been confirmed. It is now apparent that the existing lane extension to Madison Street encroaches onto the building site and drop-off access driveway. In order to rectify this, Ayshkum is proposing to shift the lane diversion southerly and close the existing lane as shown. The new opening/closing configuration will also maintain continued lane access to the properties along Kensington Street.

Land required for the opening is owned by Long Plain First Nation Landholding Inc. and consists of an asphalt surfaced loading/parking area. Although not legally opened, it provides access from Madison Street to a loading ramp adjoining the building at No. 410 Madison Street.

It is noted that the preferred location for the lane outlet opening is within Parcel “F”, Plan 50250 WLTO. Shifting the lane northerly to this position would eliminate the current dead ending scenario and create a 90º alignment. Parcel “F” is property held under the Canada Lands Registry. The City has neither the authority nor jurisdiction to open rights of way under this system.

The north/south portion of the lane closing area is a concrete surfaced right of way. Although the central portion was closed by Plan No. 50250 WLTO, it nonetheless provides access between Silver and St. Matthews Avenues. The lane outlet closing portion to Madison Street consists of an asphalt parking lot. Although legally opened, it has never been improved as a public right of way and appears to serve no apparent public transportation purpose.

The north/south lane closing area was opened by Plan Nos. 921, 1982 and 50250 and registered in the Winnipeg Land Titles Office in April of 1905, December of 1912 and July of 2010 respectively. The latter plan also opened the lane outlet closing area.

CONSULTATION

This Report has been prepared in consultation with:

Internal Consultation:

Corporate Finance
Public Works
Water and Waste
Transit

External Consultation:

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

Imperial Oil, Norscan, 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 opening and 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: March 27, 2017
File No: DAOC 2/2017

Attachments:

Appendix "A" – Administrative Approval/Comments

Appendix "B" – Miscellaneous Plans and Aerial View

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APPENDIX "A"

Administrative Approval

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

Administrative Comments

Geomatics Branch

The developer/applicant is responsible for the preparation and registration, or cause thereof, of all necessary plan, title or other documents at the Winnipeg Land Titles Office to facilitate the legal opening and closing of the subject public lane.

Public Works Department

The Streets Maintenance Division has indicated that the dead ending of the public lane makes for difficult snow plowing for the last properties fronting onto Kensington Street (Nos. 445 and 447) and have inquired about shifting the alignment of the lane outlet connection to Madison Street northerly, to create a 90º corner.

It is the understanding of the Public Works Department that the applicant is not pursuing the lane opening component with a 90º bend at the lane terminus as the land required for the opening is part of an Urban Reserve, making the opening process longer and more complicated. The Public Works Department recommends that if the proposed development is not proceeded with in 2 years from the date of Council's approval of the subject report, the applicant shall be required to re-submit a public lane opening/closing application with the preferred alignment of the right of way being shifted north, to be aligned at 90º without a dead end.

Easements

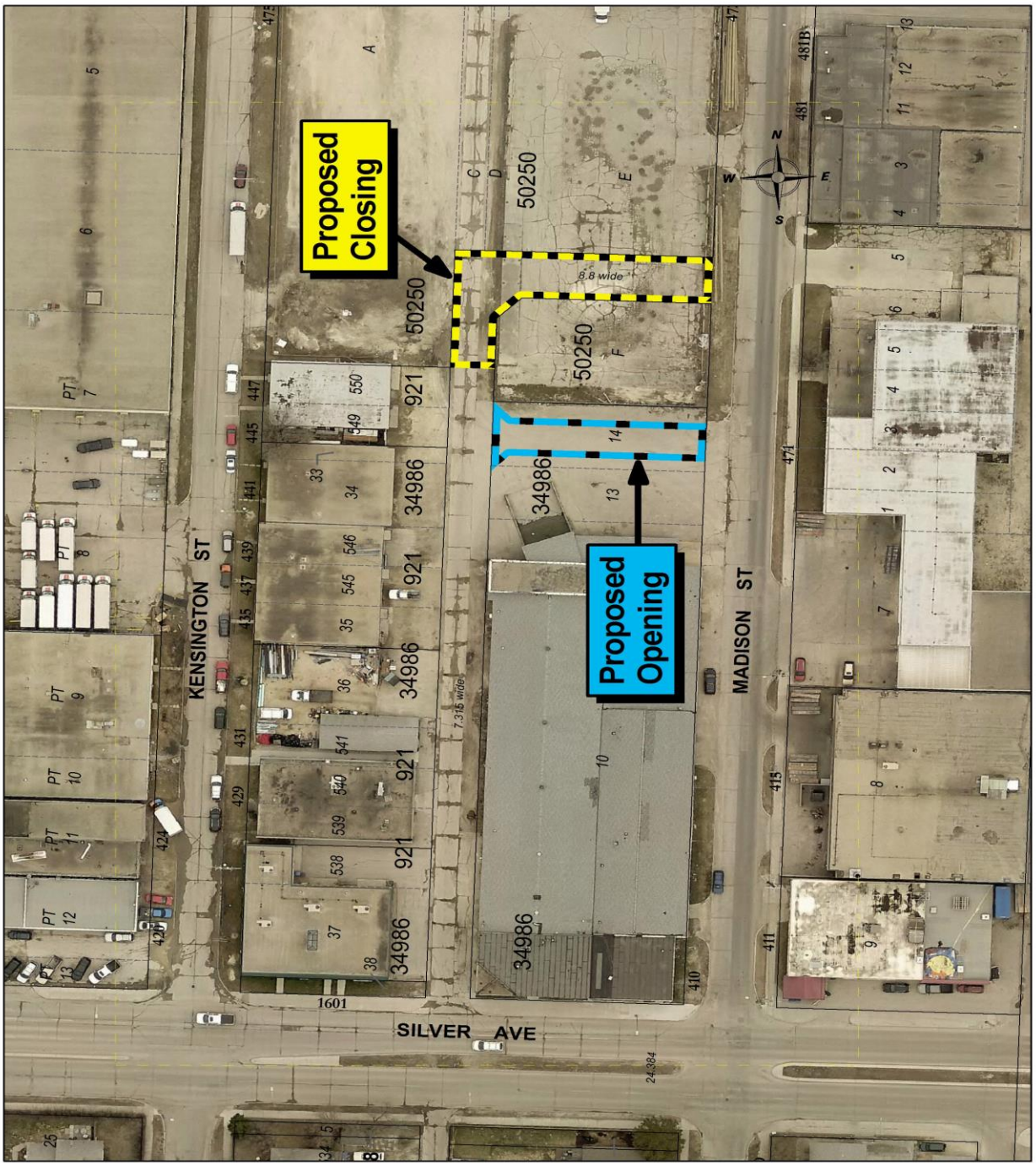
There are no services within the lane closing area. No easements will be required.

Transfer of Jurisdiction Over Public Rights-of-Way

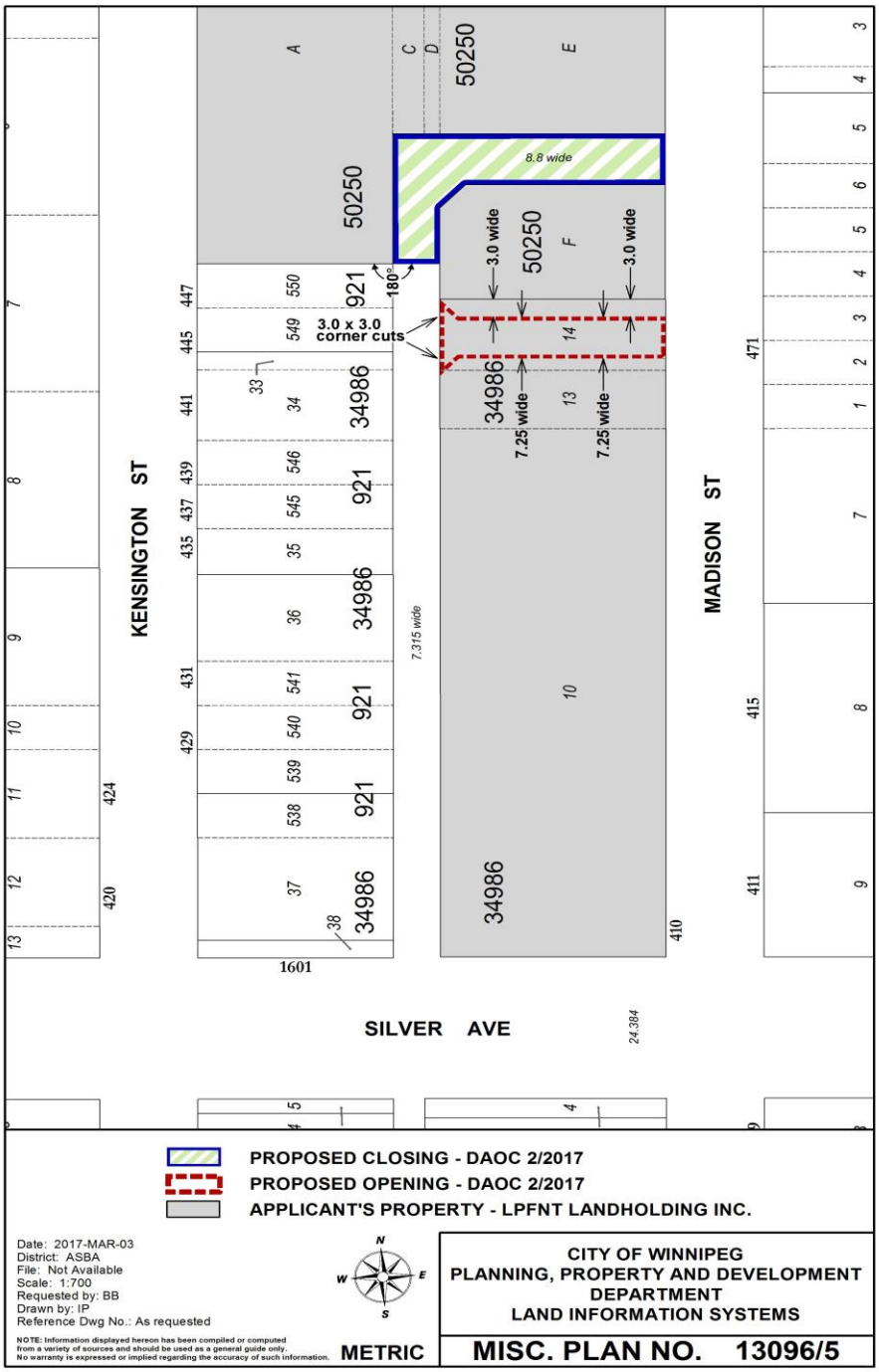
The public lane must be legally closed before it may be sold. Title to all public rights of way in Manitoba is vested in the name of the Province. The registration in the Winnipeg Land Titles Office of a closing by-law removes the public right of way status from the land and vests the ownership of the 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 Opening/Closing



Miscellaneous Plan No. 13096/5



Misc. Plan No. 13096/3

