**Agenda – Executive Policy Committee – September 20, 2017**

**Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 19, 2017**

Moved by Councillor

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than 96 hours preceding the committee meeting, be considered by Committee.

**Item No. 2** **Closing - Parts of Brandon Avenue and the Public Lane North of Carlaw Avenue, West of Nassau Street South, for Incorporation into DASZ 12/2017**
**(Fort Rouge - East Fort Garry Ward)**
**File DAC 1/2017**
**[c/r DASZ 12/2017, DCU 120289/2017D and DAV 120298/2017D]**

STANDING COMMITTEE RECOMMENDATION:

On September 19, 2017, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the City Centre Community Committee and submitted the following to Council:

1. That the Council decision of July 18, 2007 for the closing of part of the public lane under File No. DAC 12/2007, as shown on Misc. Plan 13143/1 (attached as Appendix "D"), be rescinded.

2. Subject to Recommendation 3, that the proposed street and lane closings as shown on Misc. Plan No. 15174 be approved.

3. 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 street and lane closings in accordance with Misc. Plan No. 15174 (attached as Appendix "C").

4. That in the event the subject closings are not proceeded with expeditiously and the by-law:

    A. is not enacted within two (2) years following the date the subject report is approved by Council; and

    B. is not registered in the Winnipeg Land Titles Office within one (1) year following the date it is enacted by Council,

the matter shall be deemed to be concluded and shall not be proceeded with, unless an extension of time is applied for prior to the expiry of the two (2) year period referred to in clause A. above and Council approves the extension.

5. That the Public Works Department be responsible for the maintenance of the Active Transportation pathway.

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

**Agenda – Executive Policy Committee – September 20, 2017**

**Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 19, 2017**

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On September 19, 2017, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the City Centre Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 5, 2017, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- Add the following new recommendation:

  "5. That the Public Works Department be responsible for the maintenance of the Active Transportation pathway."

- Renumber the remaining recommendations accordingly

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

**PUBLIC HEARING SUMMARY**

| | |
|---|---|
| File: | DAC 1/2017 |
| Before: | City Centre Community Committee<br>Councillor Gilroy, Chairperson<br>Councillor Gerbasi |
| Public Hearing: | September 5, 2017<br>Council Building, 510 Main Street |
| Applicant: | MMM Group Limited (Brock Feenstra) |
| Premises Affected: | Brandon Avenue (Lots 9-21, Block 6, Plan 1606), 615 Hethrington Avenue, 421 Osborne Street |
| Exhibits Filed: | 1. Report from the Real Property Officer dated August 22, 2017<br>2. Communication dated August 22, 2017, from Dan Grafton in opposition to the application<br>3. Inspection Report<br>4. Communication dated September 4, 2017, from Shauna Carmichael in opposition to the application<br>5. Communication dated September 5, 2017, from Kara Balshaw in opposition to the application<br>6. Presentation in support of the application submitted by the Applicant at the public hearing<br>7. Presentation in opposition to the application submitted by Ed Boudreaux at the public hearing |

REPRESENTATIONS:

In Support:

David Jopling
Scot Paterson
Kevin Sim
Tim Vandekerkhove
Bryan Ward
Don Wieler

In Opposition

Kara Balshaw
Ed Boudreaux
Maurice Ciarelli
Shauna Carmichael
Dan Grafton
Stephen Swan

For Information:

Joel Tranq

For the City:

B. Buyachok, Real Property Officer, Planning, Property and Development Department
M. Robinson, Senior Planner, Planning, Property and Development Department
D. Harris, Planner, Planning, Property and Development Department

Exhibit " 1 " referred to in File DAC 1/2017

# ADMINISTRATIVE REPORT

**Title:** **PROPOSED CLOSING OF PARTS OF BRANDON AVENUE AND THE PUBLIC LANE NORTH OF CARLAW AVENUE, WEST OF NASSAU STREET SOUTH, FOR INCORPORATION INTO DASZ 12/2017 – FILE DAC 1/2017**

**Critical Path:** **CITY CENTRE 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 | N/A | N/A |

## EXECUTIVE SUMMARY

Council originally approved the subject lane closing on July 18, 2007, processed under File DAC 12/2007. Due to an oversight, the lane was never legally closed.

This report requests the rescinding of Council's original approval, and subsequent new approval for the closing of part of Brandon Avenue and the Public Lane north of Carlaw Avenue, west of Nassau Street South.

The subject street and lane closings are to be incorporated into the development of the adjoining property concurrently being processed under subdivision and rezoning application DASZ 12/2017. The development is to accommodate employee parking necessitated by the loss of 106 parking spaces as part of the proposed Winnipeg Transit Fort Rouge Garage Bus Maintenance Expansion Project.

In order for the street and lane to be incorporated into the subdivision and used exclusively by the City of Winnipeg (the "City"), they must first be legally closed.

## RECOMMENDATIONS

1. That Council rescind its approval of July 18, 2007 for the closing of part of the public lane under File No. DAC 12/2007, as shown on Misc. Plan 13143/1 (attached as Appendix "D").

2. Subject to Recommendation 3, that the proposed street and lane closings as shown on Misc. Plan No. 15174 be approved.

3. 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 street and lane closings in accordance with Misc. Plan No. 15174 (attached as Appendix “C”).

4. That in the event the subject closings are not proceeded with expeditiously and the by-law:

   (a) is not enacted within two (2) years following the date the subject report is approved by Council; and

   (b) is not registered in the Winnipeg Land Titles Office within one (1) year following the date it is enacted by Council,

   the matter shall be deemed to be concluded and shall not be proceeded with, unless an extension of time is applied for prior to the expiry of the two (2) year period referred to in clause (a) above and Council approves the extension.

5. 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.

## IMPLICATIONS OF THE RECOMMENDATIONS

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

Costs associated with the public street and lane closings are the responsibility of the Transit Department and are within the approved current and/or capital budget and considered immaterial in nature.

## HISTORY/DISCUSSION

On July 18, 2007, Council concurred in the recommendation of the Standing Policy Committee on Property and Development and approved the lane closing as shown on Misc. Plan No. 13143/1. The closing was processed under File DAC 12/2007 and was required in order to accommodate an active transportation pathway at this location as part of Phase 1 of the ATP WinSmart initiative. Although the active transportation path was constructed and is currently in use, due to an oversight, the lane was never legally closed. This report’s recommendations include rescinding the original Council approval for the closing under File DAC 12/2007 and requesting new approval under File DAC 1/2017.

Discussion

The Planning, Property and Development Department has received a request from MMM Group Limited, representing Winnipeg Transit, to close the portions of the public street and lane so identified on the attached copy of Misc. Plan No. 15174. The street and lane, once closed, are to be incorporated into DASZ 12/2017, an application to subdivide and rezone the adjoining property as part of the proposed Winnipeg Transit Fort Rouge Garage Bus Maintenance Expansion Project.

The proposed garage expansion will be built on an existing employee parking lot which will result in the loss of 106 parking spaces. To compensate for the loss, the subject development area will be used for employee parking purposes.

The City is the owner of all of the properties adjoining the proposed closing area.

The subject street and lane were opened by Plan No. 1606 and registered in the Winnipeg Land Titles Office in December of 1910. Both are developed public rights of way. Brandon provides access to existing Winnipeg Transit buildings at the street's terminus. It also allows for on street parking. The public lane consists of a concrete/asphalt surfaced active transportation path. Bollards at both ends prohibit vehicular use. The path is to be relocated as part of the subdivision rezoning application.

## CONSULTATION

This Report has been prepared in consultation with:

**Internal Consultation:**

Legal Services (as to legal issues)
Corporate Finance
Public Works
Water and Waste
Transit
Fire Paramedic

**External Consultation:**

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

Imperial Oil, Norscan 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 closings do not contravene *OurWinnipeg* or the *Complete Communities Direction Strategy* and generally align with their overall vision and key directions.

## SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Bohdan Buyachok, Real Property Officer
Date: August 22, 2017
File No: DAC 1/2017

**Attachments:**

Appendix "A" – Administrative Approval/Comments

Appendix "B" – Aerial View

Appendix "C" – Miscellaneous Plan No. 15174

Appendix "D" – Miscellaneous Plan No. 13143/1

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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 street and lane closings.

Administrative Comments

Geomatics Branch

Approval of the proposed street and lane closings is subject to approval of the associated subdivision and rezoning application DASZ 12/2017 being considered concurrently.

The closing plan mylars, closing by-law and any associated documents are to be released in conjunction with the plan of subdivision mylars for DASZ 12/2017 and subsequently registered in series with and prior to the associated plan of subdivision for DASZ 12/2017.

The Transit Department is responsible for all plan, by-law and document preparation and registration costs associated with the subject closing.

Public Works Department

Approval of the closing is subject to Winnipeg Transit constructing a pathway for public use within the proposed subdivision boundary along the south and east limits, as determined by the Director of Public Works and to the satisfaction of the Director of Public Works, including the provision of lighting along the pathway and the maintenance of the pathway. Winnipeg Transit is also required to submit an application to the Public Works Department to convert the existing street turnout to a private approach, where Brandon Avenue is proposed to be closed, west of the existing north/south public lane.

Water and Waste Department

For information purposes, there is a 150mm water main running along Brandon Avenue, approximately 4.3m north of the south limit of Brandon. There is also an associated hydrant assembly and valve within the proposed closing area. Additionally, there is a 300mm combined sewer running along Brandon Avenue, approximately 9.1m south of the north limit of Brandon. This sewer also has manholes, catch basins and catch basin leads along its length. Further Branch comments are as follows:

Water Planning and Projects Delivery Branch

The existing water main is a 150mm CI dead end pipe installed in 1909. Our understanding is that the existing water main would essentially become a private water service for the adjacent transit buildings. The water main also currently services the lot with the house to be demolished, and as such, the service to the house should be properly abandoned.

The existing hydrant at the termination of the dead end should remain for fire protection of the adjacent structures and as a means for maintenance/flushing of the pipe.

If there is to be pavement work over top of the water main, it is suggested that it should be replaced due to age and the fact that the pipe is not accustomed to vehicular loading.

Wastewater Planning and Projects Delivery Branch

If it can be confirmed that there are no service connections to the 300mm CS in the subject property, it could be abandoned. If it is determined that there are still service connections and in the event that the subject property is ever declared surplus and sold, an easement will be required.

As this is a combined sewer district, the applicant will need to demonstrate that they are not increasing the peak flows to the CS system as part of this work.

Easements

Centra Gas Manitoba Inc. has identified services within the closing area. They have further advised that they will obtain the required easement through subdivision and rezoning application DASZ 12/2017.

No easements will be required for the subject closing application.

Transfer of Jurisdiction Over Public Rights-of-Way

The street and lane must be legally closed before they may be incorporated into the subdivision and used exclusively by the City. 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.

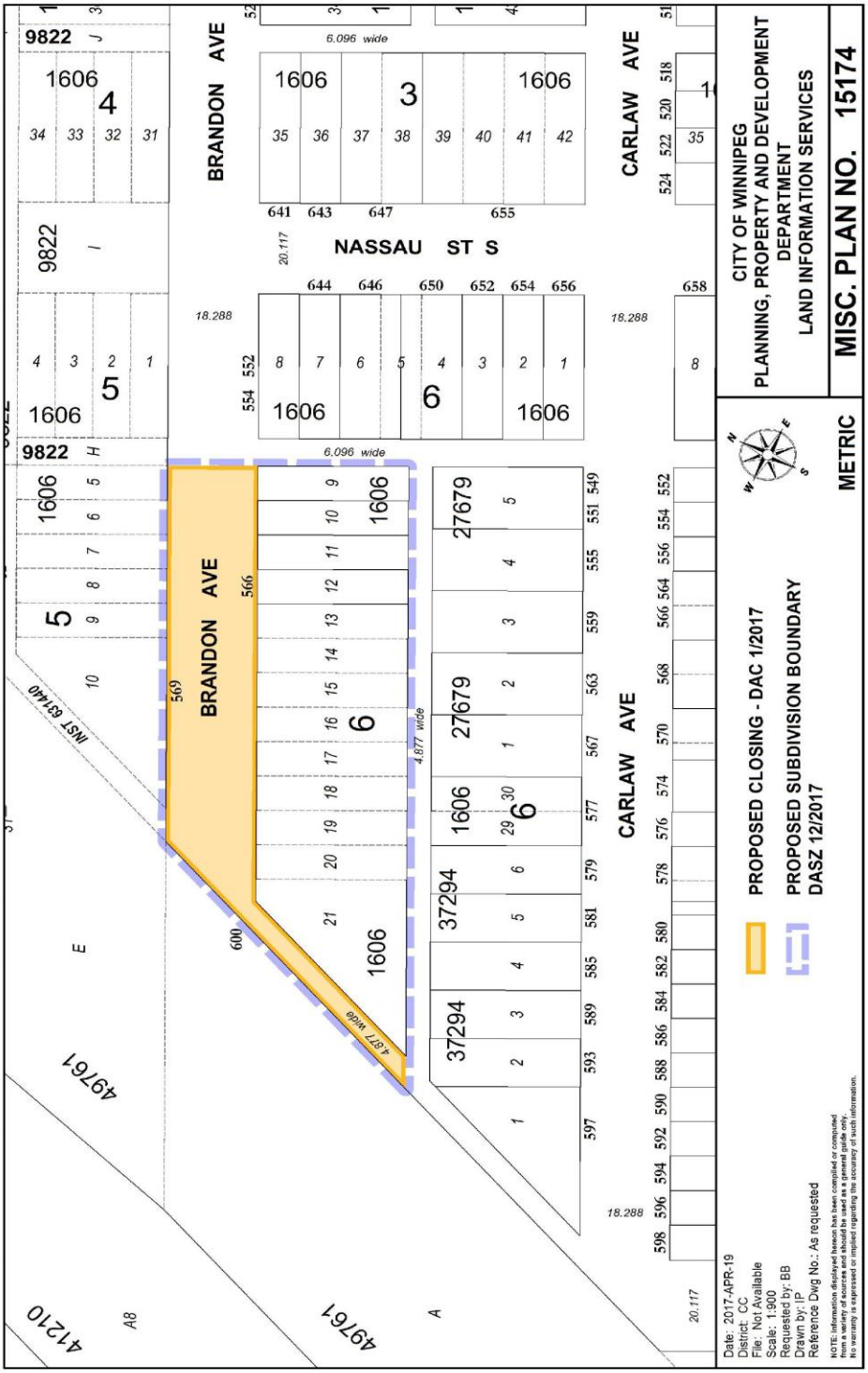
**APPENDIX "B"**

Aerial View of Subject Closing



**APPENDIX "C"**

Miscellaneous Plan No. 15174: DAC 1/2017



**APPENDIX "D"**

Miscellaneous Plan No. 13143/1: DAC 12/2007

