Minute No. 60
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 19, 2018

Item No. 3 Closing – Normand Avenue, West of St. Mary's Road
(South Winnipeg - St. Norbert Ward)
File DAC 1/2018 [c/r DASZ 6/2018]

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and adopted the following:

1. That, subject to Recommendation 2, the proposed street closing as shown as Parcels "A", "B" and "C" on Misc. Plan No. 15321/8 be approved and that Parcel "A" 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 street closing in accordance with Misc. Plan No. 15321/8 (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/purchaser entering into a Purchase and Sales Agreement with the City, which agreement shall include, among other things, a requirement that the applicant/purchaser fulfill the administrative conditions of approval outlined in Appendix "A" of this report.

3. That in the event the subject closing is 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.

4. 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 – November 19, 2018

DECISION MAKING HISTORY:

Moved by Councillor Mayes,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted.

Carried

(See Minute No. 57 for disclosure of conflict by Councillor Chambers)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 5, 2018, 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 November 19, 2018, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 12, 2018, the Riel 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.

On July 16, 2018, the Riel Community Committee did not hear any representation on the application, and adjourned the public hearing to its meeting on September 10, 2018, at 5:30 p.m. in the Council Building at 510 Main Street.

PUBLIC HEARING SUMMARY

File:	DAC 1/2018
Before:	Riel Community Committee Councillor Allard, Chairperson Councillor Mayes Councillor Lukes
Public Hearing:	September 12, 2018 July 16, 2018 Council Building, 510 Main Street
Applicant:	Affinity Architecture (Mark Funk)
Premises Affected:	Normand Avenue, west of St. Mary's Road

Exhibits Filed:

1. Report from the Real Property Officer dated June 25, 2018
2. Inspection Report
3. Communication dated July 10, 2018, from Margaret Diane Schurek in opposition to the application
4. Communication dated July 5, 2018, from Cam Dilay in opposition to the application
5. Communication dated July 15, 2018, from Eric and Joan Sawyer in opposition to the application
6. Communication dated July 16, 2018, from Pat Richards in opposition to the application
7. Communication dated July 12, 2018, from Donovan Toews and Brendan Salakoh with regards to the application
8. Communication dated September 6, 2018, from Gerald and Nancy Bravi in opposition to the application
9. Communication and drawing dated September 11, 2018, from Craig Perret with regards to the application
10. Communication dated September 12, 2018, from Lynne Urbanowski in opposition to the application
11. Communication dated September 12, 2018, from Monique and Michel Arbez in opposition to the application
12. Presentation in support of the application submitted by the Applicant at the public hearing
13. Petition in opposition to the application purporting to contain the signatures of 77 area residents, submitted by Gilbert Cloutier

14. Communication dated September 12, 2018, from Gilbert Cloutier in opposition to the application
15. Petition in opposition to the application purporting to contain the signatures of 42 area residents, submitted by Louis Pereira
16. Petition in opposition to the application purporting to contain the signatures of 369 area residents, submitted by Louis Pereira
17. Petition in opposition to the application purporting to contain the signatures of 182 area residents, submitted by Owen Clune

REPRESENTATIONS:

In Support:	
Bruno Arpin	Anastasia Nykyforov
Paul Bilodeau	Rob Robson
Mark Funk	Brendan Salakoh
Nikolas Joyal	Daniel Serhal
Kate Kennedy	Clint Toews
Randy Koroscil	Donovan Toews
Mara Koven-Lapointe	Pearl Toews
Nickia Krahn	

In Opposition:

Michel Arbez
Monique Arbez
Linda Ames
Robert Ames
Kent Bannister
Barbara Bazinet
Roland Bazinet
Bryan Bjerring
Bev Born
Brian Born
John Borody
Gerald Bravi
Nancy Bravi
Corinne MJ Caron
Markus Chambers
Glenn Churchill
Gilbert Cloutier
Lorraine Cloutier
Owen Clune
Estelle Dandeneau
Allan Dandeneau
Sandra Davidson
Jennifer Devodder
Cam Dilay
Lisa Dorber
Jon Dundas
Delphina English
Michel English
Andrew Enns
Kathryn Enns
Cameron Funk
George Gereben
Donna Gereben
Marvie Gordon
Edna Guinan
Jim Hamilton
Marlyn Harding
Bob Hayden
Lorraine Hayden
Bryon Heinrichs
Saul Henteleff
Yude Henteleff
Elma Hiebert
Ernest Hiebert
Heather Irving
Murray Kadys
Tony Kwong
Cherryl Lenton
Marilyn Loewen
Russ Loewen
Janice Loiselle
Alexandra Mathieson
Don Mathieson
Dianna McGavin
Gina Morgan
David Osborne
Fausto Pereira
Louis Pereira
Craig Perrett
Sheila Pursey
Edward Reimer
Trudy Reimer
Pat Richards
Carol Roy
Philippe Sabourin
Eric Sawyer
Joan Sawyer
Margaret Diane Schurek
Hilla Schnellert
Debbie Senecal
Lorne Strobe
Lynne Urbanowski
Frank Weiss
Pat Weiss
Lorna Winterburn
Joel Wortley

For Information:

Judith Bjerring
M. J. Corinne Caron
Nick Rulen

For the City:

B. Buyachok, Real Property Officer, Planning, Property and Development Department
K. Thiessen, Riverbank Management Engineer, Planning, Property and Development Department
R. Mahé, Planner, Planning, Property and Development Department
E. Finnigan, Planner, Planning, Property and Development Department
S. Jerez, Planner, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 1/2018

ADMINISTRATIVE REPORT

Title: Proposed Closing of Normand Avenue, West of St. Mary's Road for Incorporation into DASZ 6/2018 – File DAC 1/2018

Critical Path: Riel 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

The Winnipeg Public Service recommends approval of the closing of Normand Avenue, west of St. Mary's Road.

Affinity Architecture, representing the Applicant/Developer, wants to purchase the proposed closing area for incorporation into DASZ 6/2018, an application to subdivide and rezone the entire property for the establishment of a multi-family residential development.

The Developer has conditional offers to purchase the adjoining land north of Normand Avenue required for the subdivision, including another City property. The City of Winnipeg's Real Estate Branch are negotiating the terms and conditions of the sale of the City property.

Before the street may be sold and incorporated into the subdivision, it must be legally closed.

RECOMMENDATIONS

1. That, subject to Recommendation 2, the proposed street closing as shown as Parcels "A", "B" and "C" on Misc. Plan No. 15321/8 be approved and that Parcel "A" 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 street closing in accordance with Misc. Plan No. 15321/8 (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/purchaser entering into a Purchase and Sales Agreement with the City, which agreement shall include, among other things, a requirement that the applicant/purchaser fulfill the administrative conditions of approval outlined in Appendix "A" of this report.

3. That in the event the subject closing is 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.

4. 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 per Section 3.1(i) of the City Organization By-law, only Council can declare City-owned property 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 street closing are the responsibility of the applicant. There are no financial implications for the City of Winnipeg.

HISTORY/DISCUSSION

The Planning, Property and Development Department has received a request from Affinity Architecture to close and purchase Normand Avenue, so identified on the attached copy of Misc. Plan No. 15321/8. The street, once closed, is to be incorporated into DASZ 6/2018, an application to subdivide and rezone the adjoining property for the establishment of a multi-family residential development.

The applicant has indicated that their client has conditional offers to purchase all the land north of the proposed closing required for the subdivision, with the exception of City of Winnipeg property, being SP Lots 8 and 9, Plan 19857 WLTO. The Real Estate Division is presently negotiating its sale, and will provide the Developer with a letter of authorization to include this property in the development.

The Water and Waste Department has requested that a 7.0m wide portion of the closing area be retained by the City as a utility corridor for existing services. The corridor is identified as Parcel “B” on Misc. Plan No. 15321/8 The Parks and Open Spaces Division has also requested that a portion of the closing area be retained by the City as Public Reserve, identified as Parcel “C” on the sketch. Both Parcels “B” and “C” are to be rezoned as PR-1 lands and dedicated as Public Reserves under DASZ 6/2018.

Property to the south of the proposed closing at 2000 St. Mary’s Road was developed as part of subdivision and rezoning application DASZ 16/2006, approved by Council on January 24, 2007. One of the report’s recommendations required the Developer for that project to enter into a Development Agreement with the City containing all the conditions outlined in the report of the Administrative Coordinating Group dated October 27, 2006, two of which being the following:

1. The Developer is required to ensure that 2 paved means of vehicular access for construction traffic use are available at all times through all stages of development of the Planned Area, to the satisfaction of the Director of Public Works (Clause 13 (c)), and

2. The Developer is required to ensure that construction traffic uses access routes as determined by the Director of Public Works (Clause 16).

The access routes adjoin the proposed closing area. A site inspection indicates that construction has been or is near to being completed. The applicant has indicated that the owners of 2000 St. Mary's Road have advised their client that they are not amenable to the subject closing application.

Normand Avenue is a gravel surfaced right of way. Apart from providing access to four currently occupied residences, it also connects to a pathway within the Public Reserve adjoining Mardena Crescent.

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, BellMTS, Shaw Cablesystems, Bell Canada, Rogers Communications and TeraSpan

Imperial Oil, Norscan, Crown Utilities 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: Real Estate and Land Development
Prepared by: Bohdan Buyachok, Real Property Officer
Date: June 25, 2018
File No: DAC 1/2018

Attachments:

Appendix "A" – Administrative Comments

Appendix "B" – Miscellaneous Plan and Aerial View

Appendix "C" – Water and Waste Utility Corridor Sketch

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APPENDIX "A"

Administrative Comments

Water and Waste Department

Approval of the closing is subject to the following conditions:

- The City shall retain the southerly perpendicular 7.0m of the closing area as a utility corridor, with a west limit as outlined in the attached sketch (shown in Appendix "C" of this report) to provide access to the existing wastewater sewer and Primary Line of Defense (PLD) for our flood protection system.
    - A lease agreement would be required to the satisfaction of the Water and Waste Department for the proposed parking area use within the utility corridor.
- The Purchaser shall register, at no expense to the City, an access easement over the balance of the closing area beyond the 7.0m utility corridor, for accessing the utility corridor and PLD on lots south of the closing area.
- Ownership of the land drainage sewer in Normand Avenue would need to be transferred over to the Purchaser and it would become private infrastructure.
    - Our records indicate the pipe services a portion of the property addressed as 2000 St. Mary's Road. It is advised that a joint servicing agreement would be required.

Transportation Engineering Division

The application's approval is subject to the following conditions:

- The Developer shall enter into a Servicing Agreement with the City, the conditions of which are specifically outlined in subdivision and rezoning application DASZ 6/2018.
- The Developer is required to submit an application to the Public Works Department, pursuant to the Private Access By-law to either remove the existing street turn-out(s) at St. Mary's Road and restore the curb, boulevard and sidewalk in that location or to retain the existing turn-out(s) as Private Approach(es) where Normand Avenue is proposed to be closed at St. Mary's Road. New private approaches or modifications to existing private approaches also need to be submitted to the Public Works Department.
- There are four lights on wood poles on Normand Avenue, west of St. Mary's Road. Three are 100W HPS SHRD and the fourth is 60W HPS SHRD. These lights would have to be de-commissioned and removed from the City of Winnipeg billing.

Geomatics Branch

The application's approval is subject to the following conditions:

- The proposed closing is subject to approval of the associated DASZ 6/2018 application.

- The closing plan mylars, closing By-law and any associated documents are to be released along with the plan of subdivision mylars for DASZ 6/2018 and subsequently registered in series with and prior to the associated plan of subdivision.
- The applicant is responsible for all costs related to the preparation of the necessary closing plan and any associated documents and registration of same at The Property Registry.

Assessment and Taxation

Local Improvements have identified the following for information purposes:

1984 St. Mary's Road

Roll #08005957000 – Paid Out - Local Improvement Project 2473
Wastewater Sewer - Term 1981 – 2000
Assessment By-law No. 286581

Roll #08005957000 – Paid Out - Local Improvement Project 2479
Land Drainage Sewer – Laterals & Trunks - Term 1981 – 2000
Assessment By-law No. 286681

1982 St. Mary's Road

Roll #08005950000 – Paid Out - Local Improvement Project 2473
Wastewater Sewer, Term 1981 – 2000
Assessment By-law No. 286581

Roll #08005950000 – Paid Out - Local Improvement Project 2479
Land Drainage Sewer – Laterals & Trunks - Term 1981 – 2000
Assessment By-law No. 286681

<u>Easements</u>

Manitoba Hydro and Centra Gas Manitoba Inc. have identified services within the closing area and will require easements for these existing facilities. No permanent structures will be allowed within the easement areas.

Shaw Cablesystems have indicated that their easement requirements will be determined upon issuance of subdivision and rezoning application DASZ 6/2018.

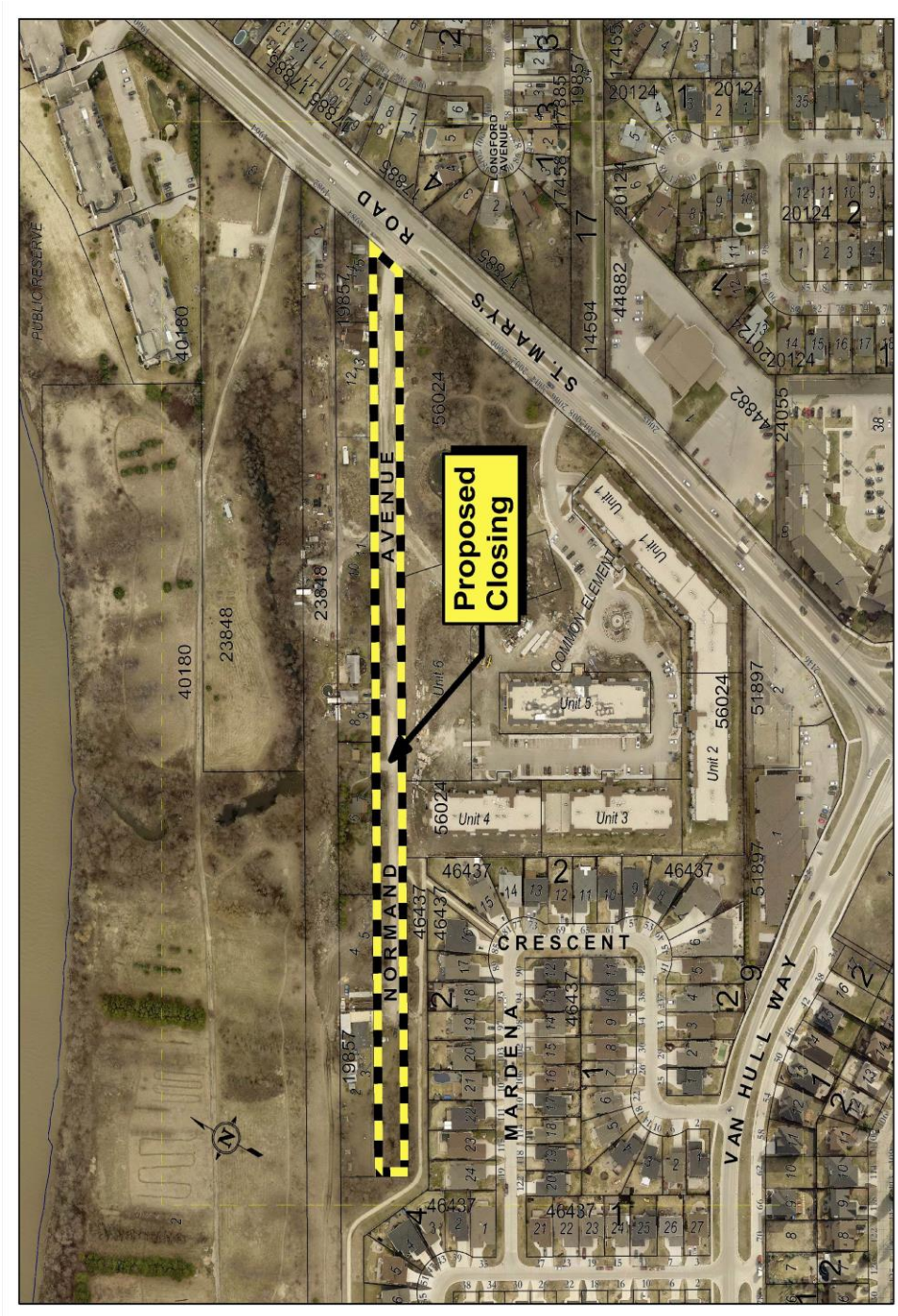
Any removal or relocation of existing facilities as a result of the proposed street closing will be at the expense of the applicant.

Transfer of Jurisdiction Over Public Rights-of-Way

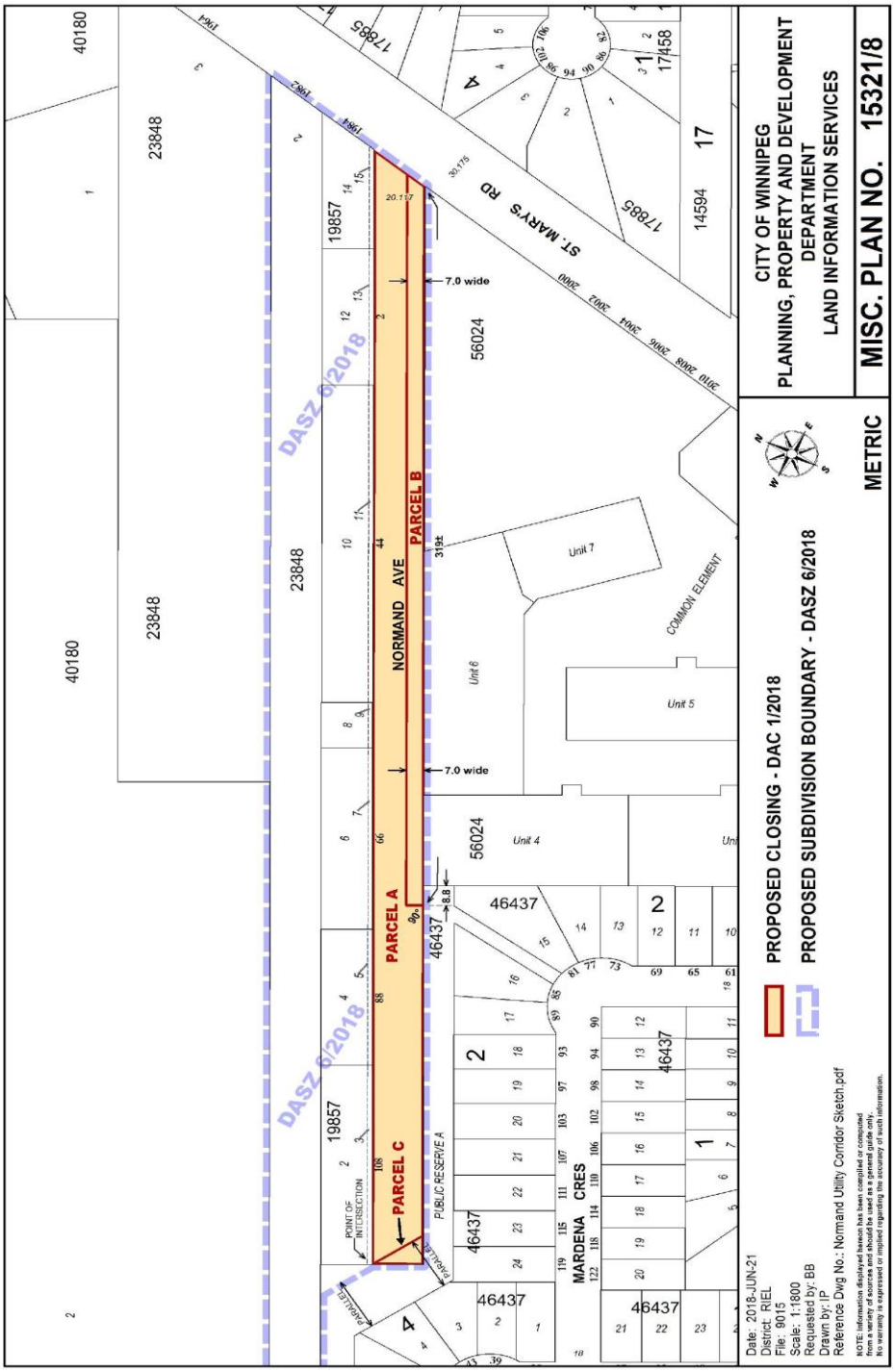
The street must be legally closed before it may be sold and incorporated into subdivision and rezoning application DASZ 6/2018. Title to all public rights of way in Manitoba is vested in the name of the Province. The registration in the Winnipeg Land Titles Office of a closing by-law removes the public 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

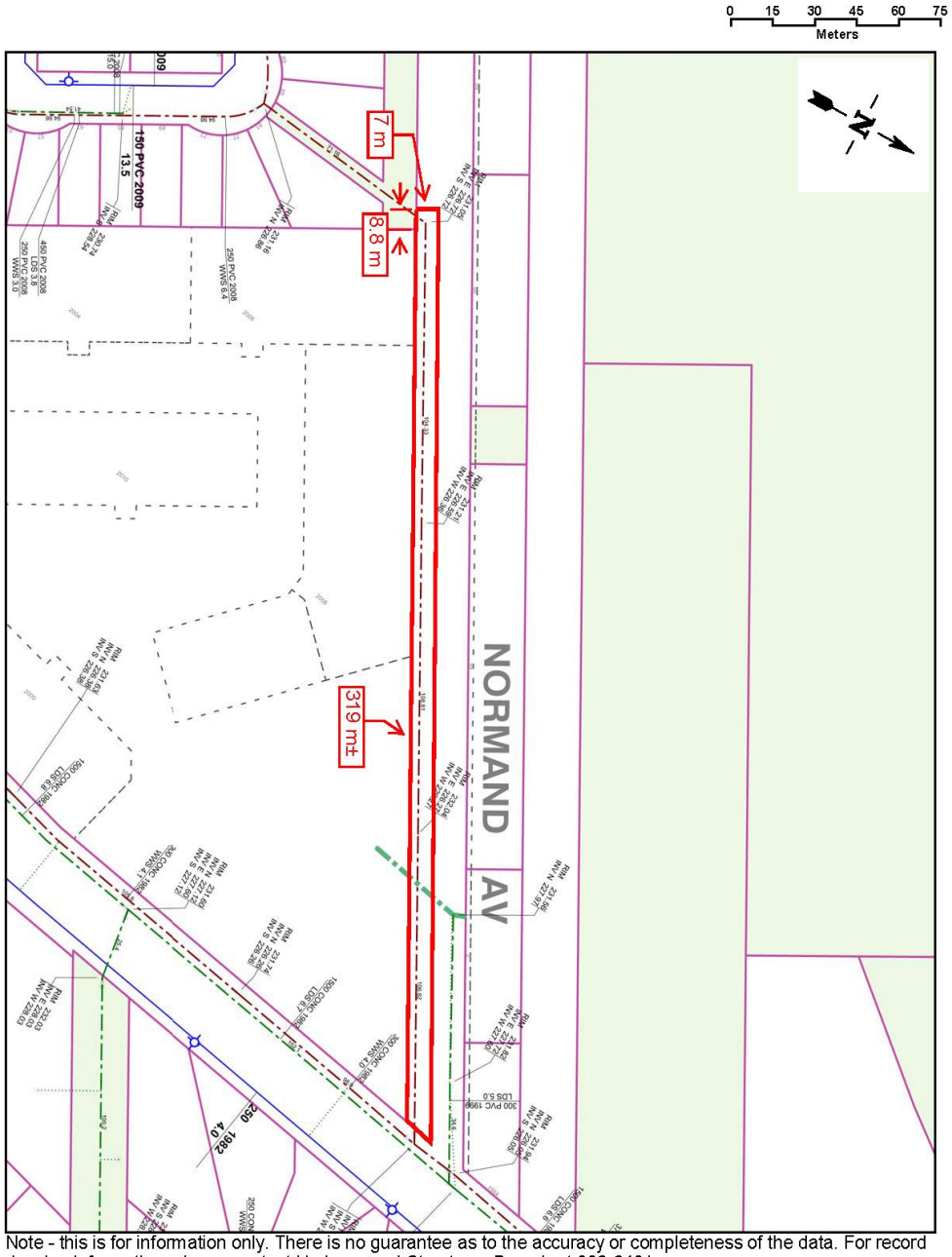


Miscellaneous Plan



APPENDIX "C"

Water and Waste Department Utility Corridor



Note - this is for information only. There is no guarantee as to the accuracy or completeness of the data. For record drawing information, please contact Underground Structures Branch at 986-6401.