Agenda – Council – April 25, 2019

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 1, 2019

Item No. 9 Closing of Public Lane North of Logan Avenue, West of Ada Street (Point Douglas Ward)
File DAC 1/2019

STANDING COMMITTEE RECOMMENDATION:

On April 16, 2019, 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. Subject to Recommendation 2, that the lane closing as shown on Misc. Plan No. 15475 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 and bring directly to Council for enactment a by-law to facilitate the lane closing in accordance with Misc. Plan No. 15475 (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 – April 1, 2019

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 16, 2019, 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 1, 2019, 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 March 12, 2019, the Lord Selkirk-West Kildonan Community Committee concurred in the recommendation of the Winnipeg Public Service forwarded the matter to the Standing Policy Committee on Property and Development, Heritage and Downtown Development.

PUBLIC HEARING SUMMARY

File:	DAC 1/2019
Before:	Lord Selkirk-West Kildonan Community Committee Councillor Santos, Chairperson Councillor Eadie Councillor Sharma
Public Hearing:	March 12, 2019 Council Building, 510 Main Street
Applicant:	Carte Industrial Holdings Inc. (Jim Watling, Pollock & Wright)
Premises Affected:	Public Lane North of Logan Avenue, West of Ada Street
Exhibits Filed:	1. Report from the Real Property Officer dated February 20, 2019 2. Inspection Report

REPRESENTATIONS:

In Support:

Jim Watling
Lockie McLean

In Opposition:

Nil

For Information:

Richard Dalebozk

For the City:

Bohdan Buyachok, Real Property Officer, Planning, Property and Development Department
R. Hayer, Planner, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 1/2019

ADMINISTRATIVE REPORT

Title: Proposed Closing of the Public Lane North of Logan Avenue, West of Ada Street – File DAC 1/2019

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
M. Pittet	J. Kiernan	N/A	N/A

EXECUTIVE SUMMARY

The Public Service recommends that the Public Lane north of Logan Avenue, west of Ada Street, be closed.

Carte Industrial Holdings Inc. ("Carte") has requested to purchase the proposed closing area to expand their existing property holdings.

Preclad Electronics Systems Ltd. ("Preclad") also owns property contiguous to the lane closing's terminus at Ada Street. Preclad are supportive of Carte's application and have advised they are interested in acquiring the portion of the proposed closing area adjacent to their property, subject to an acceptable purchase price. Should Preclad not proceed with the purchase, Carte have advised they would buy the entire lane and will provide Preclad with an access easement.

Before the lane may be sold, it must be legally closed and declared surplus to the City's needs.

RECOMMENDATIONS

1. Subject to Recommendation 2, that the lane closing as shown on Misc. Plan No. 15475 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 and bring directly to Council for enactment a by-law to facilitate the lane closing in accordance with Misc. Plan No. 15475 (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 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 lane 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 Pollock & Wright, representing Carte Industrial Holdings Inc., to close and purchase the public lane as shown on the attached copy of Misc. Plan No. 15475. The lane, once closed, is to form an addition to Carte's adjoining holdings as shown on the sketch.

Preclad Electronics Systems Ltd. is the owner of property at No. 1961 Logan Avenue, also adjoining the lane closing. They have provided written approval for this application as well as an expression of interest in purchasing the lane portion contiguous to their land, subject to an acceptable sale price. Should Preclad decide not to proceed with the acquisition, Carte has indicated that they are amenable to granting them an access easement subsequent to acquiring the entire lane.

The east/west portion of the subject lane was opened by Plan No. 795 and registered in the Winnipeg Land Titles Office in February of 1904. The north/south portion of the subject lane was opened by Plan No. 6682 WLTO in December of 1957. It was created as a lane diversion, necessitated by the closing of a portion of the public lane to the west.

The closing area contiguous to Carte's property comprises a gravel surfaced laneway used exclusively by them to access their properties. The portion behind Preclad's property is also used exclusively by them for private storage. Closing the lane will remove the trespass. As a currently legally open right of way, the lane serves no public transportation purpose.

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

External Consultation:

Manitoba Hydro, Centra Gas, BellMTS, Bell Canada, Shaw Cablesystems, TeraSpan and Telus

Imperial Oil, Fiber, Crown Utilities, Norscan and Rogers Communications 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: February 20, 2019
File No: DAC 1/2019

Attachments:

Appendix “A” – Administrative Approval/Comments

Appendix “B” – Miscellaneous Plan 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 lane closing.

Administrative Comments

Geomatics Branch

Approval of this application is subject to the following conditions:

- The applicant/purchaser(s) submitting or causing to have submitted a Development Application (DASSF) proposing a plan of subdivision that creates a single Lot or multiple Lots as dictated by the location of existing buildings to facilitate consolidation of the closed right-of-way with all of the applicant's adjacent holdings/property to the west, north and south of the subject public lane and for all fees associated with the Development Application.

- The applicant is responsible for all costs associated with the preparation of the closing plan, subdivision plan, any associated documents and the registration of all necessary documents at The Property Registry to facilitate legal closing of the right-of-way and its conveyance.

- The closing plan mylars, closing by-law, land Transfer and any associated documents will be released together with the plan of subdivision mylars and associated documents for registration in series at The Property Registry.

Public Works Department

Approval is subject to the Applicant removing the existing lane turn-outs on Ada Street and Logan Avenue and restoring the curb, boulevard and sidewalk, as appropriate, at those locations, all as determined by and to the satisfaction of the Director of Public Works. Should the Applicant wish to retain the existing lane and turn-outs as a private approach, they must make application to the Public Works Department for Private Access Approval.

Easements

Manitoba Hydro, BellMTS and Shaw Cablesystems 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.

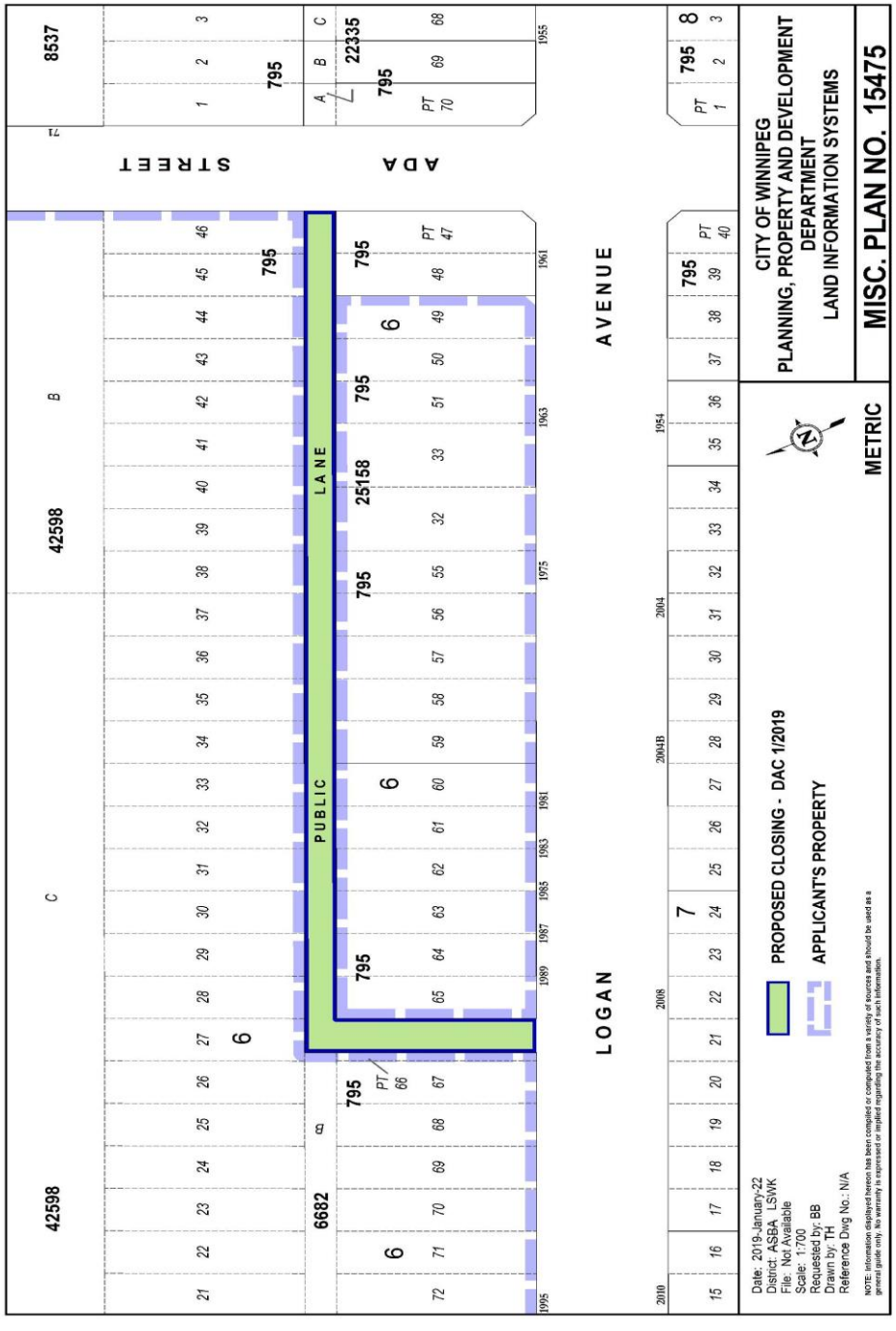
Any removal or relocation of existing facilities as a result of the proposed lane closing will be at the expense of the applicant.

Transfer of Jurisdiction Over Public Rights-of-Way

The 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"

Miscellaneous Plan



Aerial View of Subject Closing

