Minute No. 460
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – June 24, 2019

Item No. 13 Closing of Public Road, Plan 58702 WLTO at the Terminus of Scholberg Lane for Incorporation into DAS 4/2019 (St. Boniface Ward) File DAC 2/2019 [DAS 4/2019]

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 Council's approval of the opening and closing of part of Scholberg Lane at Gwynne Road on September 24, 2014, as shown on Misc. Plan No. 14708/1, be rescinded.

2. Subject to Recommendation 2, that the street closing as shown on Misc. Plan No. 14708/3 be approved and that the land be declared surplus to the City's needs.

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 closing in accordance with Misc. Plan No. 14708/3 (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 fulfilling the administrative conditions of approval outlined in Appendix "A" of this report.

4. 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.

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STANDING COMMITTEE RECOMMENDATION (continued):

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

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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 by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 9, 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 June 24, 2019, 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.

COMMUNITY COMMITTEE RECOMMENDATION:

On June 4, 2019, 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 May 6, 2019, the Riel Community Committee did not hear any representation on the application, and adjourned the public hearing to its meeting on June 4, 2019, at 5:30 p.m. in the Council Building at 510 Main Street, due to improper posting.

PUBLIC HEARING SUMMARY

File:	DAC 2/2019
Before:	Riel Community Committee Councillor Allard, Chairperson Councillor Mayes Councillor Chambers
Public Hearing:	June 4, 2019 May 6, 2019 Council Building, 510 Main Street
Applicant:	Genstar Development Company
Premises Affected:	40 Scholberg Lane, 2 Gwynne Road and south corner of Scholberg Lane at Gwynne Road
Exhibits Filed:	1. Report from the Real Property Officer dated April 15, 2019 2. Inspection Report 3. Notice of adjournment dated May 10, 2019 4. Communication dated May 27, 2019 and photos from Diann Dunbar in opposition to the application 5. Communication dated May 28, 2019 from Kim Williamson in opposition to the application 6. Communication dated June 3, 2019 from Natasha Sookermany and Garett Heuchert in opposition to the application 7. Petition in opposition to the application purporting to contain the signatures of 13 area residents, submitted by Mark Eagles

REPRESENTATIONS:

In Support:

Dave Boles
Marc Brown

In Opposition:

Sarah Chan
Mark Eagles
Garett Heuchert
Gary Roberts
Angela Schellenberg
Natasha Sookermany
Rheanne Unryn

For Information:

Wayne Lymburner
Lindsey Wilson

For the City:

G. Jasper, Land Development Administrator, 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 2/2019

ADMINISTRATIVE REPORT

Title: Proposed Closing of Public Road, Plan 58702 WLTO at the Terminus of Scholberg Lane for Incorporation into DAS 4/2019 – File DAC 2/2019

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

Genstar Development Company ("Genstar"), the applicant, has requested to close/purchase the proposed closing area for incorporation into DAS 4/2019, an application to subdivide the adjoining property for the establishment of residential lots. The majority of the closing area will be reopened as "Scholberg Lane" in order to provide secondary access to Island Lakes.

The Public Service recommends that Public Road, Plan 58702 WLTO, at the terminus of Scholberg Lane, be closed. Before the street may be sold and incorporated into the subdivision, it must be legally closed.

RECOMMENDATIONS

1. That Council's approval of the opening and closing of part of Scholberg Lane at Gwynne Road on September 24, 2014, as shown on Misc. Plan No. 14708/1, be rescinded.

2. Subject to Recommendation 2, that the street closing as shown on Misc. Plan No. 14708/3 be approved and that the land be declared surplus to the City's needs.

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 closing in accordance with Misc. Plan No. 14708/3 (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 fulfilling the administrative conditions of approval outlined in Appendix "A" of this report.

4. 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.

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.

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 street closing are the responsibility of the applicant. There are no financial implications for the City of Winnipeg.

HISTORY/DISCUSSION

On September 24, 2014, Council concurred in the recommendation of the Standing Policy Committee on Property and Development and approved the opening and closing of part of Scholberg Lane at Gwynne Road under File DAOC 2/2014, in conjunction with subdivision and rezoning application DASZ 21/2014.

Discussion

The Planning, Property and Development Department received a request from Genstar Development Company to close Public Road, Plan 58702 WLTO as shown on the attached copy of Misc. Plan No. 14708/3.

The road, if closed, would be incorporated into the redevelopment of the adjoining property currently being processed under subdivision application DAS 4/2019. Specifically, a major portion of the closing will be re-opened as "Scholberg Lane" for the provision of a secondary access to Island Lakes immediately north of Precinct "K". The opening component will be accommodated under DAS 4/2019.

In July of 2014, Genstar submitted an application under File DAC 5/2014 to close a portion of Scholberg Lane in conjunction with subdivision and rezoning application DASZ 21/2014. During the course of the circular for the proposal, the Public Works Department noted that the remaining opening radius of 18.0m proposed by the applicant did not conform to the standard radii of 21.5m in the adjoining subdivisions. This necessitated a change in the geometry of the application which was subsequently amended and processed as an opening/closing under File DAOC 2/2014. The revised geometry is identified on the attached copy of Misc. Plan No. 14708/1. Council approved the administrative report for the opening/closing on September 24, 2014. An opening/closing plan was never prepared, nor was a by-law passed. The requirement for a secondary access within DAS 4/2019 has now rendered application DAOC 2/2014 irrelevant. It will be necessary to rescind Council's September 24, 2014 approval.

Public Road, Plan 58702 was legally opened and registered in the Winnipeg Land Titles Office in December of 2015. Along with application DAOC 2/2014, the road geometry was to accommodate a standard radius corner cut at the Scholberg Lane and Gwynne Road intersection. The land is unimproved and serves no current transportation or access 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 and Crown Utilities

Imperial Oil, Fiber, 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 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: April 15, 2019
File No: DAC 2/2019

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 street closing.

Administrative Comments

Geomatics Branch

Approval of this application is subject to the following conditions:

- The necessary closing plan mylars, closing by-law, land transfer and any associated documents will be released along with the plan of subdivision (prepared in accordance with DAS 4/2019) and subsequently registered in series with and prior to the associated plan of subdivision.

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

Easements

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

Conveyance of Street for $1.00

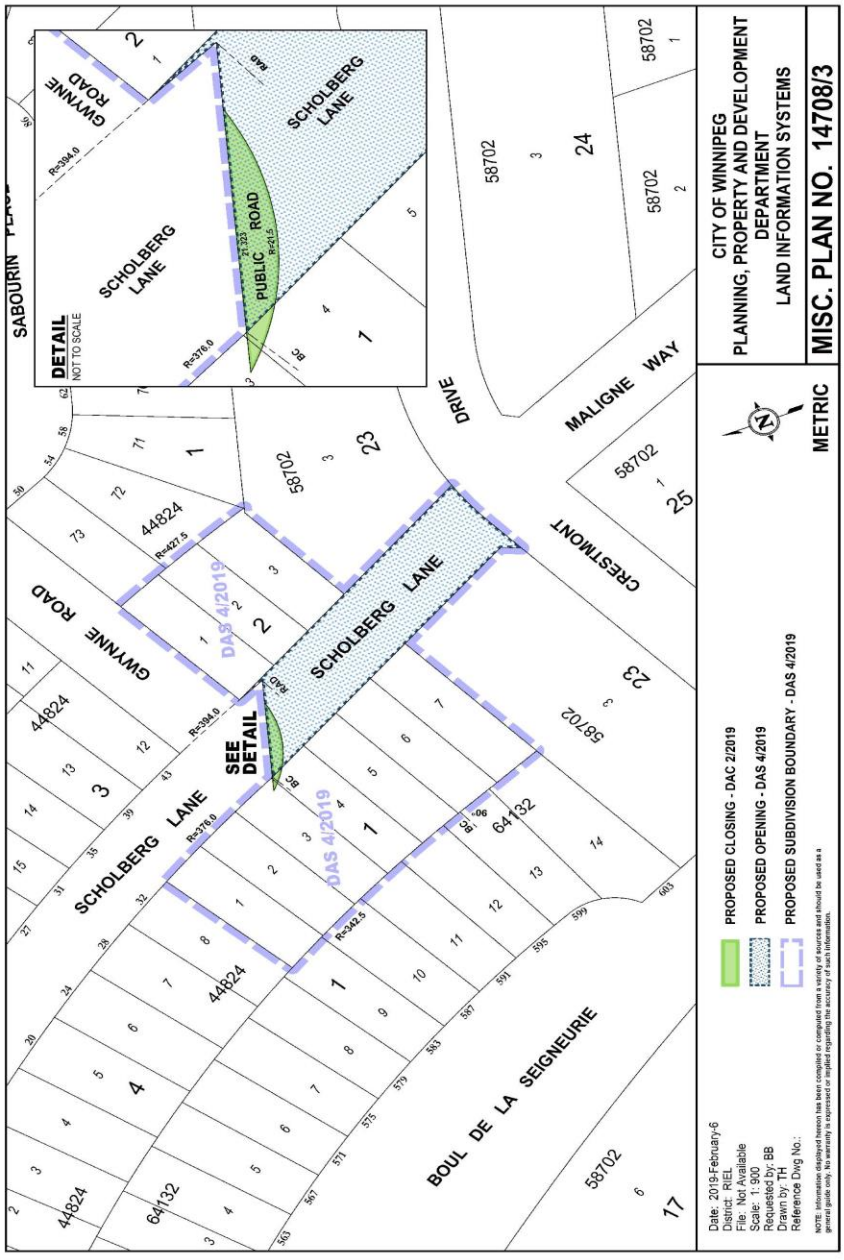
The area of the street being created by the subdivision exceeds the area of the street being closed. In accordance with City policy, the closed portion of Public Road, Plan 58702 WLTO will be conveyed to the Developer for the nominal sum of $1.00.

Transfer of Jurisdiction Over Public Rights-of-Way

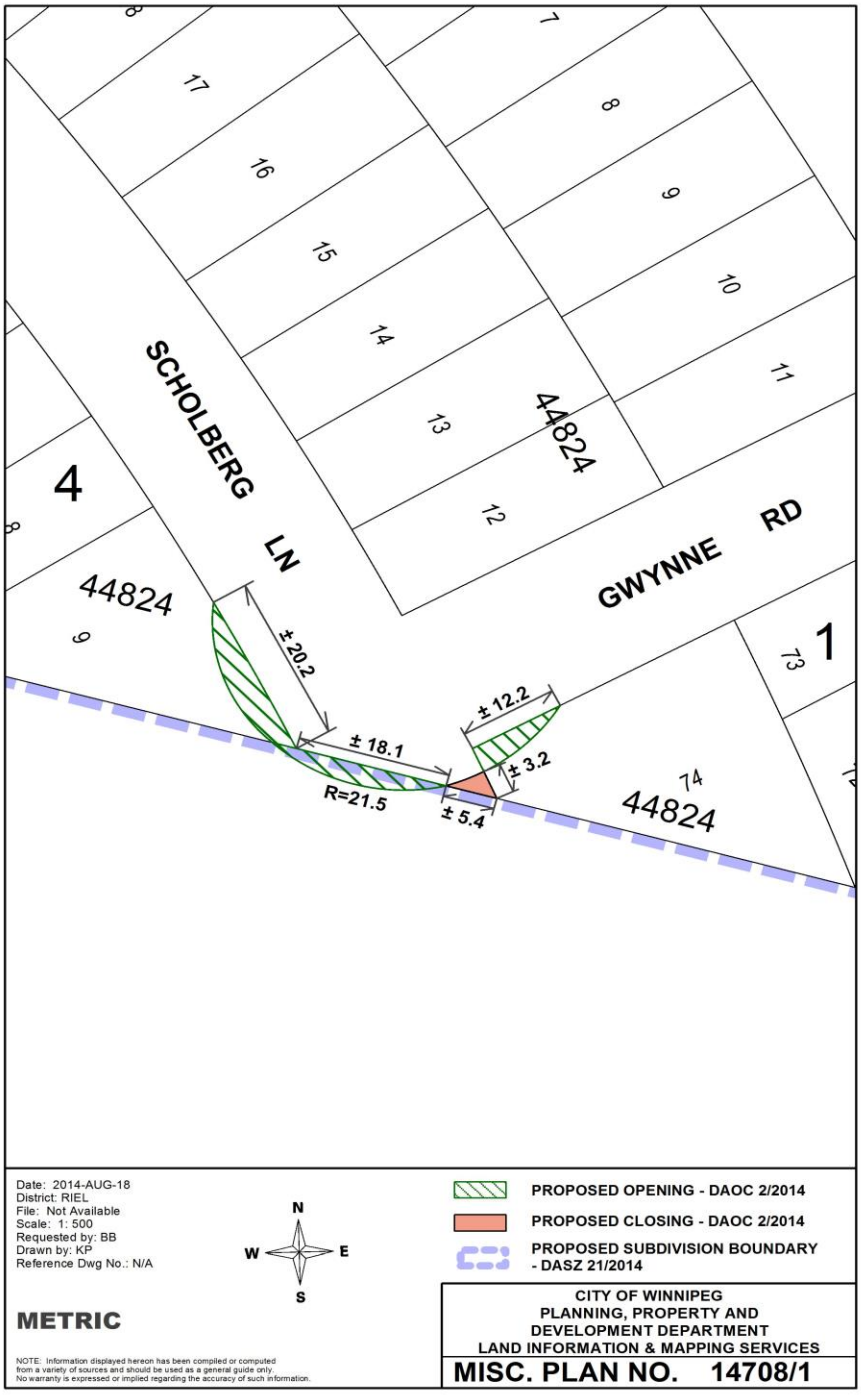
The street must be legally closed before it may be sold. Title to all public rights of way in Manitoba is vested in the name of the Province. The registration in the Winnipeg Land Titles Office of a closing by-law removes the public right of way status from the land and vests the ownership of the property in the City's name. The City is not entitled to dispose of the land until this has been done.

APPENDIX "B"

Miscellaneous Plan 14708/3: DAC 2/2019



Miscellaneous Plan 14708/1: DAOC 2/2014



Aerial View of Subject Closing

