Minute No. 595
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 30, 2019

Item No. 8 **Closing – Public Lane North of Wardlaw Avenue, East of Osborne Street for Incorporation into DASZ 20/2019**
(Fort Rouge-East Fort Garry Ward)
File DAC 3/2019 [c/r DASZ 20/2019, DCU 131273/2019D and DAV 131281/2019D]

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. Subject to Recommendation 2, that the lane closing as shown on Misc. Plan No. 15505 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. 15505 (attached as Appendix "B"), subject to:

   A. The approval of the conveyance of the land by Council or its delegated authority, and

   B. The purchaser entering into a Purchase and Sales Agreement with the City, which agreement shall include, among other things, a requirement that the 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.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 30, 2019

COUNCIL DECISION (continued):

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 – September 30, 2019

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 October 15, 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 September 30, 2019, 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.

Shirley Forsyth submitted a communication dated September 27, 2019, with respect to the matter.

COMMUNITY COMMITTEE RECOMMENDATION:

On September 17, 2019, the City Centre 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:	DAC 3/2019
Before:	City Centre Community Committee Councillor Gilroy, Chairperson Councillor Orlikow Councillor Rollins
Public Hearing:	September 17, 2019 Council Building, 510 Main Street
Applicant:	Pre-Con Builders Ltd. (Robin Lee)
Premises Affected:	Public Lane North of Wardlaw Avenue, East of Osborne Street for Incorporation into DASZ 20/2019
For submission to:	The Standing Policy Committee on Property and Development, Heritage and Downtown Development
Prepared by:	Kate McMillan, Senior Committee Clerk City Centre Community Committee
Report date:	September 19, 2019

Community Committee Recommendation:

On September 17, 2019, the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development, Heritage and Downtown Development:

1. Subject to Recommendation 2, that the lane closing as shown on Misc. Plan No. 15505 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. 15505 (attached as Appendix "B"), subject to:

    A. The approval of the conveyance of the land by Council or its delegated authority, and

B. The purchaser entering into a Purchase and Sales Agreement with the City, which agreement shall include, among other things, a requirement that the 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.

Exhibits Filed:

1. Report from the Real Property Officer dated August 6, 2019
2. Inspection Report
3. Communication dated September 16, 2019, from Lukas Neville in support of the application
4. Communication dated September 16, 2019, from Susan Prentice in opposition to the application
5. Communication dated September 16, 2019, from Arnold Goetz in opposition to the application
6. Communication dated September 16, 2019, from Mark Cohoe in opposition to the application
7. Communication dated September 16, 2019, from Michael Thompson in opposition to the application
8. Communication dated September 16, 2019, from Trevor Condie in opposition to the application
9. Communication dated September 16, 2019, from Steve West in opposition to the application
10. Communication dated September 16, 2019, from Lindsay Butt in opposition to the application
11. Communication dated September 17, 2019, from Daria Salamon in opposition to the application
12. Communication dated September 17, 2019, from Tom Scott in opposition to the application
13. Communication dated September 17, 2019, from Dale and Carol Crerar in opposition to the application
14. Communication dated September 17, 2019, from Steven Hooper in opposition to the application

REPRESENTATIONS:

In Support:
Mark Cohoe
Neil Cooper
Basil Lagopoulos
Nicholas Lagopoulos
Robin Lee
Karl Loepp
Lukas Neville
Ross Ransby
Karen Shanski
Ryan Toth
Tom Toni
Barry White

In Opposition:

Lindsay Butt
Trevor Condie
Carol Crerar
Dale Crerar
Shirley Forsyth
Trever Gebel
Arnold Goetz
Steven Hooper
Susan Prentice
Daria Salamon
Tom Scott
Edwina Shwedyk
Michael Thompson
Steve West

For Information:

Nil

For the City:

B. Buyachok, Real Property Officer, Planning, Property and Development Department
M. Robinson, Senior Planner, Planning, Property and Development Department
A. Ross, Planner, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 3/2019

ADMINISTRATIVE REPORT

Title: Proposed Closing of the Public Lane North of Wardlaw Avenue, East of Osborne Street for Incorporation into DASZ 20/2019 – File DAC 3/2019

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

Pre-Con Builders Ltd., the applicant, has requested to close and purchase the subject public lane for incorporation into DASZ 20/2019, an application to subdivide and rezone the adjoining properties for the establishment of a multi-family residence and mixed use commercial development.

The Public Service recommends that the public lane north of Wardlaw Avenue, east of Pembina Highway be closed. Before the lane may be sold and incorporated into the subdivision, it must be legally closed.

RECOMMENDATIONS

1. Subject to Recommendation 2, that the lane closing as shown on Misc. Plan No. 15505 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. 15505 (attached as Appendix "B"), subject to:

   A. the approval of the conveyance of the land by Council or its delegated authority, and

   B. the purchaser entering into a Purchase and Sales Agreement with the City, which agreement shall include, among other things, a requirement that the 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 Pre-Con Builders Ltd. to close and purchase the public lane as shown on the attached copy of Misc. Plan No. 15505.

The lane, if closed, would be incorporated into DASZ 20/2019, an application to subdivide and rezone the two adjoining properties to accommodate a multi-family residence and mixed use commercial development.

The subject lane provides access to the former Osborne Village Inn at 160 Osborne Street and hotel beer vendor and parking lot at 425 Wardlaw Avenue, both of which are now vacant properties slated for redevelopment. The lane also currently provides an outlet for properties in the Wardlaw and River Avenue block. Subsequent to the lane's physical closure, area residents will be required to access their rear yards either via Osborne or Scott Streets.

The public lane was legally opened by Plan 208 and filed in the Registry Office for the County of Selkirk in January of 1882. The right of way is Old System Land. A Real Property Application will be required to bring it under the operation of the Torrens System.

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, TeraSpan, Telus and Crown Utilities.

Imperial Oil, Fiber, 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: August 6, 2019
File No: DAC 3/2019

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 proposed closing is subject to approval of associated subdivision and rezoning application DASZ 20/2019.

- The closing plan mylars, closing Bylaw and any associated documents are to be registered in series with and prior to the associated plan of subdivision for application DASZ 20/2019.

- 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 Winnipeg Land Titles Office.

Public Works Department

Approval of this application is subject to the following condition:

- The Developer is required to submit a Private Access Application to the Public Works Department as per the Private Access Bylaw to either remove the existing lane turn-out at Wardlaw Avenue and restore the curb, boulevard and sidewalk at that location, or to retain the existing turn-out as a Private Approach, where the Public Lane is proposed to be closed at Wardlaw Avenue.

Water and Waste Department

All proposed water and sewer infrastructure, servicing pipes and lot grading within the development area would be subject to Water and Waste Department review and approval.

Easements

Manitoba Hydro and BellMTS have identified services within the closing area.

Both utilities will require easements for these existing facilities. No permanent structures will be allowed within the easement area.

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

