Minute No. 136
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – January 6, 2020

Item No. 7 **Closing – Fernbank Avenue between McPhillips Street and CPR Plan 379 WLTO for Incorporation into DASZ 24/2019**
(Old Kildonan Ward)
File DAC 5/2019 [c/r DASZ 24/2019]

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, subject to Recommendation 2, the street closing as shown on Misc. Plan No. 15329/2 be approved and 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 street closing in accordance with Misc. Plan No. 15329/2 (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, among other things, fulfilling 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 – January 6, 2020

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 January 21, 2020, 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 January 6, 2020, 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 November 12, 2019, the Lord Selkirk-West Kildonan 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 October 15, 2019, the Lord Selkirk-West Kildonan Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on November 12, 2019, at 5:00 p.m. in the Council Building at 510 Main Street.

PUBLIC HEARING SUMMARY

File:	DAC 5/2019
Before:	Lord Selkirk-West Kildonan Community Committee Councillor Sharma, Chairperson Councillor Eadie Councillor Santos
Public Hearing:	November 12, 2019 October 15, 2019 Council Building, 510 Main Street
Applicant:	Ladco Company Ltd. (Michael Carruthers)
Premises Affected:	Fernbank Avenue between McPhillips Street and CPR Plan 379 WLTO
For submission to:	The Standing Policy Committee on Property and Development, Heritage and Downtown Development
Prepared by:	P. Prinsloo, Senior Committee Clerk Lord Selkirk-West Kildonan Community Committee
Report date:	October 15, 2019
Exhibits Filed:	1. Report from the Real Property Officer dated September 10, 2019 2. Inspection Report 3. Notice of Adjournment dated October 17, 2019

REPRESENTATIONS:

In Support:

David Borger
Michael Carruthers
Sean Gallagher
Brendan Salakoh
Tyler Smith

In Opposition:

Nil

For Information:
Nil

For the City:

R. Hayer, Planner, Planning, Property and Development Department
C. Gagnon, Real Property Officer, Planning, Property and Development Department
D. Trenchard, Land Development Engineer, Planning, Property and Development Department
G. Jasper, Land Development Administrator, Planning Property and Development Department

Exhibit "1" referred to in File DAC 5/2019

ADMINISTRATIVE REPORT

Title: Proposed Closing of Fernbank Avenue between McPhillips Street and CPR Plan 379 WLTO for Incorporation into DASZ 24/2019 – File DAC 5/2019

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

Ladco Company Limited, the applicant, has requested to close and purchase Fernbank Avenue between Mcphillips Street and CPR Plan 379 WLTO for incorporation into DASZ 24/2019, an application to subdivide and rezone the adjoining property within Precinct "G" for the establishment of a mixed use residential and commercial development.

The Public Service recommends that the subject street be closed. Before the street may be sold and incorporated into the subdivision, it must be legally closed.

RECOMMENDATIONS

1. That, subject to Recommendation 2, the street closing as shown on Misc. Plan No. 15329/2 be approved and 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 street closing in accordance with Misc. Plan No. 15329/2 (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, among other things, fulfilling 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 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 Ladco Company Limited to close Fernbank Avenue as shown on the attached copy of Misc. Plan No. 15329/2.

The street, if closed, is to be incorporated into DASZ 24/2019, an application to subdivide and rezone the adjoining property to accommodate a mixed use commercial and residential development within Precinct “G”.

The applicant is the owner of the adjoining property to the north and south of the closing area. The subject closing is currently undeveloped right of way, consisting of grass and overgrown weeds. It is neither maintained by the city nor the adjoining property owner and appears to serve no public transportation purpose.

Parts of the subject closing will subsequently be opened as public right way under subdivision and rezoning application DASZ 24/2019, as shown on the sketch identified as "Proposed Opening" in Appendix "B". The portion shown coloured purple is to be opened as Ferrier Street and will serve as transportation access in the initial phase of the development. The portion coloured green is being opened initially for the purpose of providing servicing connections and land drainage, but will not include a physical road connection at this time. The balance of the proposed closing is to be incorporated into the subdivision.

The subject right of way was opened as public road by By-law No. 55 of the Municipality of Kildonan in 1884. Subsequent designations have included "Municipal Road" and "Jafffray Street". Metro Corporation By-law No. 557 changed the designation to "Fernbank Street" in February of 1964. Fernbank presently has a common suffix name of "Avenue", the particulars for the designation of which is undetermined.

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, Shaw Cablesystems, Bell Canada, and Crown Utilities.

Imperial Oil, Fiber, Telus, 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: September 10, 2019
File No: DAC 5/2019

Attachments:

Appendix “A”: Administrative Approval/Comments

Appendix “B”: Miscellaneous Plan
Aerial View of Subject Closing
Proposed Opening Within DASZ 24/2019

O:\Reports Directive\Land Development, Geomatics and Land Information Services\Geomatics\DAC 5.19 RPT_Fernbank

V:\development applications\daoc\dev application2019\dac5_2019\final_report\dac5.19rpt

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 proposed closing is subject to approval of associated subdivision and rezoning application DASZ 24/2019.

- The closing plan mylars, closing Bylaw and any associated documents are to be released along with the plan of subdivision mylars for DASZ 24/2019 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.

Easements

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

Conveyance of Street for $1.00

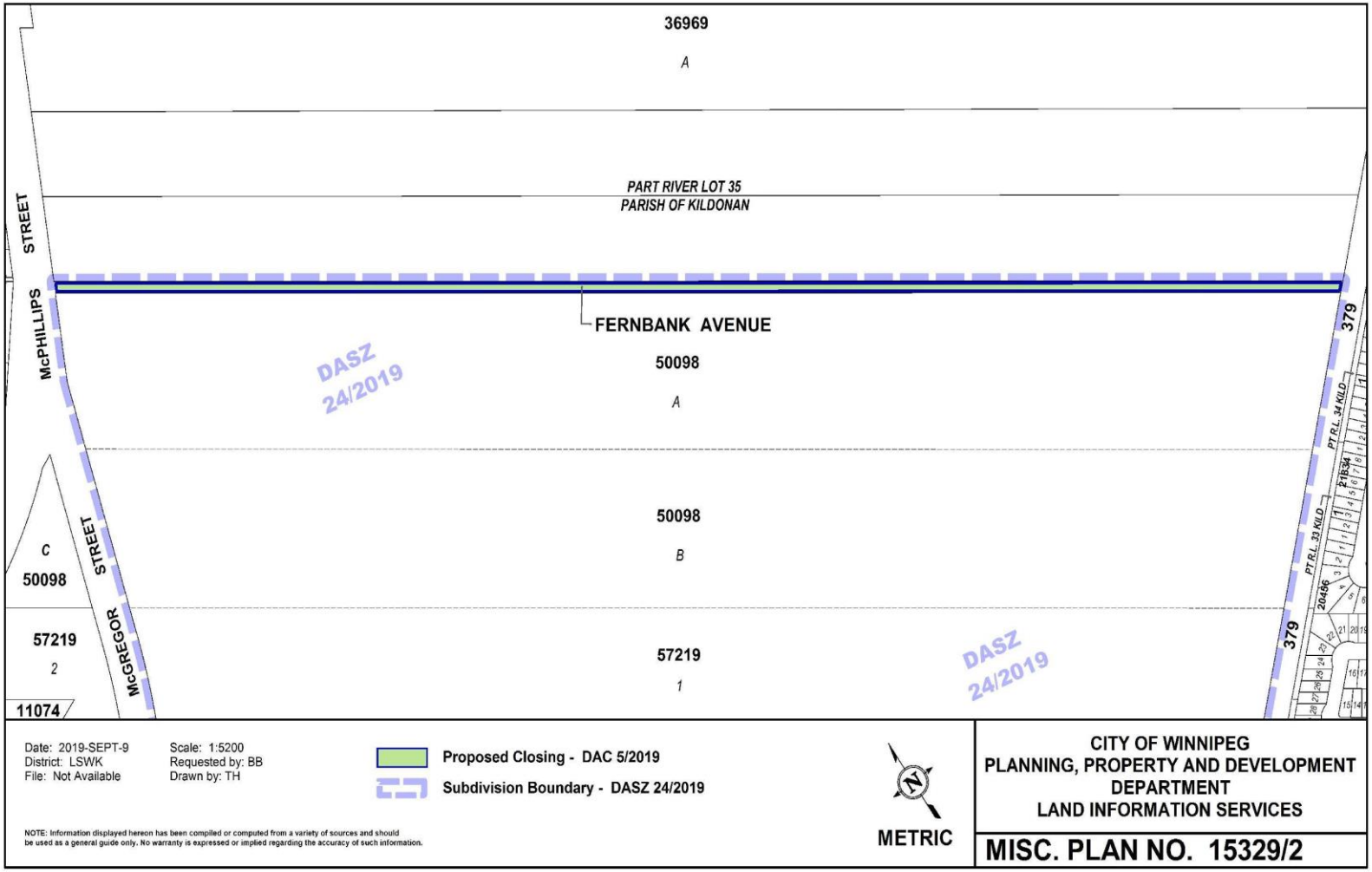
The area of the streets being created by the subdivision exceeds the area of the street being closed. In accordance with City policy, the closed portion of Fernbank Avenue will be conveyed to the Developer for the nominal sum of $1.00.

Transfer of Jurisdiction Over Public Rights-of-Way

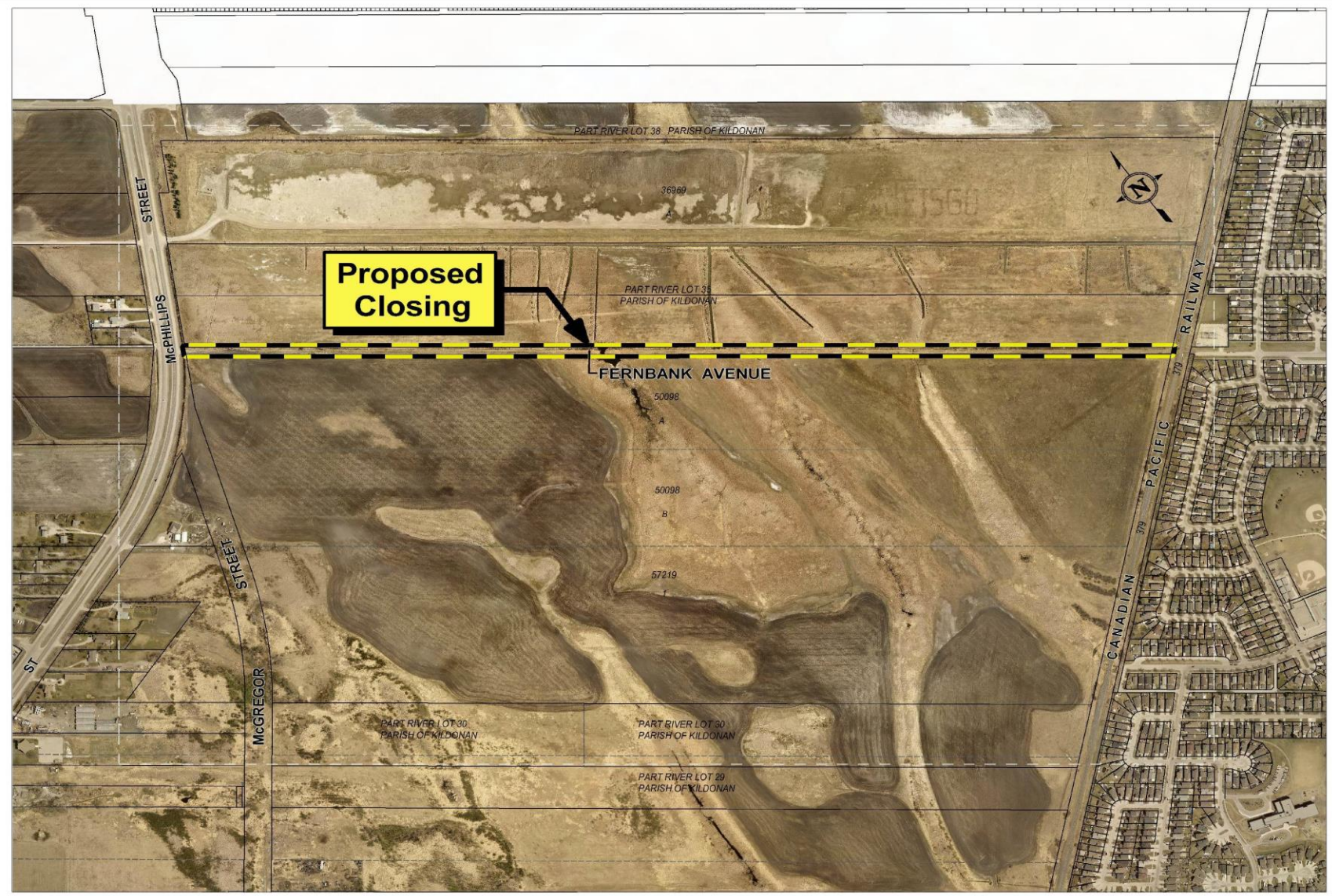
The street must be legally closed before it may be sold. Title to all public rights of way in Manitoba is vested in the name of the Province. The registration in the Winnipeg Land Titles Office of a closing by-law removes the public right of way status from the land and vests the ownership of the property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

APPENDIX "B"

Miscellaneous Plan



Aerial View of Subject Closing



Proposed Opening Within DASZ 24/2019

