Minutes – Executive Policy Committee – July 15, 2020

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 13, 2020

Item No. 8 Closing – Proposed Closing of Public Lane North of 341 Scotia Street between Scotia Street and the Red River (Mynarski Ward) File DAC 3/2020

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

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. That subject to Recommendation 2, the proposed closing of public lane shown on Misc. Plan No. 15617 (attached hereto as Appendix "B"), be approved and the land 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. 15617 subject to:

    A. Council waiving its policy of September 17, 1980 regarding the retention of street ends providing access to rivers as it applies to the subject public lane;

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

    C. the developer and/or purchaser (or assignee) fulfilling its obligations under 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

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EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

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 City enter into, execute and deliver an Offer to Purchase with the developer and/or purchaser (or assignee) and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

5. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Offer to Purchase and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

6. 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 – July 13, 2020

DECISION MAKING HISTORY:

Moved by Councillor Gillingham,

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than four business days preceding the committee meeting, be considered by Committee.

Carried

Moved by Councillor Gilroy,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On July 13, 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 June 23, 2020, 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.

HEARING SUMMARY

File:	DAC 3/2020
Before:	Lord Selkirk-West Kildonan Community Committee Councillor Sharma, Chairperson Councillor Eadie Councillor Santos
Public Hearing:	June 23, 2020 Council Building, 510 Main Street
Applicant:	J. Wintrup Consulting Ltd. (John Wintrup)
Premises Affected:	Public lane north of 341 Scotia Street between Scotia Street and the Red River
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:	June 23, 2020

Community Committee Recommendation:

On June 23, 2020, the Lord Selkirk-West Kildonan 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. That subject to Recommendation 2, the proposed closing of public lane shown on Misc. Plan No. 15617 (attached hereto as Appendix "B"), be approved and the land 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. 15617 subject to:

    A. Council waiving its policy of September 17, 1980 regarding the retention of street ends providing access to rivers as it applies to the subject public lane;

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

C. the developer and/or purchaser (or assignee) fulfilling its obligations under 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 City enter into, execute and deliver an Offer to Purchase with the developer and/or purchaser (or assignee) and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

5. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Offer to Purchase and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

6. 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 May 11, 2020
2. Inspection Report

REPRESENTATIONS:

In Support:

Matthew Robinson
Gord Steeves
Jenny Bilodeau
Elliot MacDonald

In Opposition:

Nil

For Information:

Nil

For the City:

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

Exhibit "1" referred to in File DAC 3/2020

ADMINISTRATIVE REPORT

Title: DAC 3/2020 – Proposed closing of public lane north of 341 Scotia Street between Scotia Street and the Red River

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

J. Wintrup Consulting Ltd., representing the owners of 341 Scotia Street, has applied to the City to close the public lane immediately north of and adjacent to 341 Scotia Street, between Scotia Street and the Red River. The owners have a private approach contained primarily within the public lane and a garage that encroaches significantly over the public lane. The closing and sale of the public lane to the owners will regularize the private approach and eliminate the encroachment.

Council's policy of September 17, 1980 requires that in the event that the sale of a street end providing access to the rivers is recommended, the terms and conditions of sale must be approved by Council and further, that Council must waive its policy of September 17, 1980 concerning retention of street ends.

The Public Service recommends approval be given to the proposed closing. Before the public lane may be sold, Council's September 17, 1980 policy regarding street ends leading to rivers must be waived and the public lane must be legally closed.

RECOMMENDATIONS

1. That subject to Recommendation 2, the proposed closing of public lane shown on Misc. Plan No. 15617 (attached hereto as Appendix "B"), be approved and the land 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. 15617 subject to:

A. Council waiving its policy of September 17, 1980 regarding the retention of street ends providing access to rivers as it applies to the subject public lane;

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

C. the developer and/or purchaser (or assignee) fulfilling its obligations under 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 City enter into, execute and deliver an Offer to Purchase with the developer and/or purchaser (or assignee) and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

5. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Offer to Purchase and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

6. 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

Only Council can waive the policy of retaining street ends that provide access to the rivers.

As per Section 3.1(i) of the City Organization By-law 7100/97, only Council can declare City-owned property as surplus.

IMPLICATIONS OF THE RECOMMENDATIONS

All costs associated with the proposed closing is the responsibility of the developer and/or purchaser (or assignee). There are no financial implications for the City of Winnipeg.

HISTORY/DISCUSSION

The Public Service has received a request from M. Richard and Associates Ltd., representing the owners of 341 Scotia Street, to close the public lane immediately north of and adjacent to 341 Scotia Street, between Scotia Street and the Red River.

The public lane, legally opened by Plan No. 1092 registered in the Winnipeg Land Titles Office on July 20, 1906, ends at the Red River. It is unimproved and serves no public transportation purpose. The owners of the adjoining property at 341 Scotia Street maintain a private approach, contained primarily within the right-of-way and a garage, the majority of which encroaches over the public lane. There is no formal lease agreement for the approach or the encroachment but an annual encroachment fee for the garage is applied to the tax bill for property at 341 Scotia Street. The closing and sale of the public lane to the owners will regularize the private approach and eliminate the encroachment.

Council's policy of September 17, 1980 requires that all street ends providing access to the rivers are to be retained by the City, that all leases for street ends contain a clause not restricting public access to the rivers, and further that no fences or structures be placed on the property, and in the event that the sale of a street end is recommended, the terms and conditions of sale must be approved by Council and further, that Council must waive its policy for such street ends.

CONSULTATION

This Report has been prepared in consultation with:

Internal Consultation:

Fire Paramedic Services
Legal Services Department (as to legal issues)
Office of Sustainability
Police Services
Public Works Department
Transit Department
Water and Waste Department
Ward Councillor

External Consultation:

Manitoba Hydro, Centra Gas, BellMTS, Bell Canada, Shaw Cablesystems, Fibre.Ca Inc., and Crown Pipeline Ltd.

Rogers Communications, TC Energy, Imperial Oil, and Teraspan Networks 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.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Planning, Property and Development Department
Division: Geomatics
Prepared by: Catherine P. Gagnon
Date: May 11, 2020
File No: DAC 3/2020
Attachments:
Appendix "A" - Administrative Approval
Appendix "B" - Miscellaneous Plan 15617
Appendix "C" - Aerial View of Proposed Closing

O:\Reports Directive\Land Development, Geomatics and Land Information Services\Geomatics\DAC 3.2020 RPT_Lane North of 341 Scotia Street
V:\Development Applications\DAOC\Dev Application2020\DAC3_2020\Report and Council Decision\DAC 3.2020 Report

APPENDIX "A" – ADMINISTRATIVE APPROVAL

The proposal has been considered by all affected City departments and public utilities. There are no administrative objections to the proposed closing.

Administrative Comments

Geomatics Branch

Approval of this application is subject to the following conditions:

- The applicant or developer and/or purchaser (or assignee) submitting or causing to have submitted a Development Application (DASSF) proposing a plan of subdivision that creates a single Lot to facilitate consolidation of the closed public lane with the adjacent property at 341 Scotia Street and legally described as SP Lot 28 Plan 30640.

- Obtaining approval and meeting any necessary conditions in respect to the above-noted Development Application (DASSF).

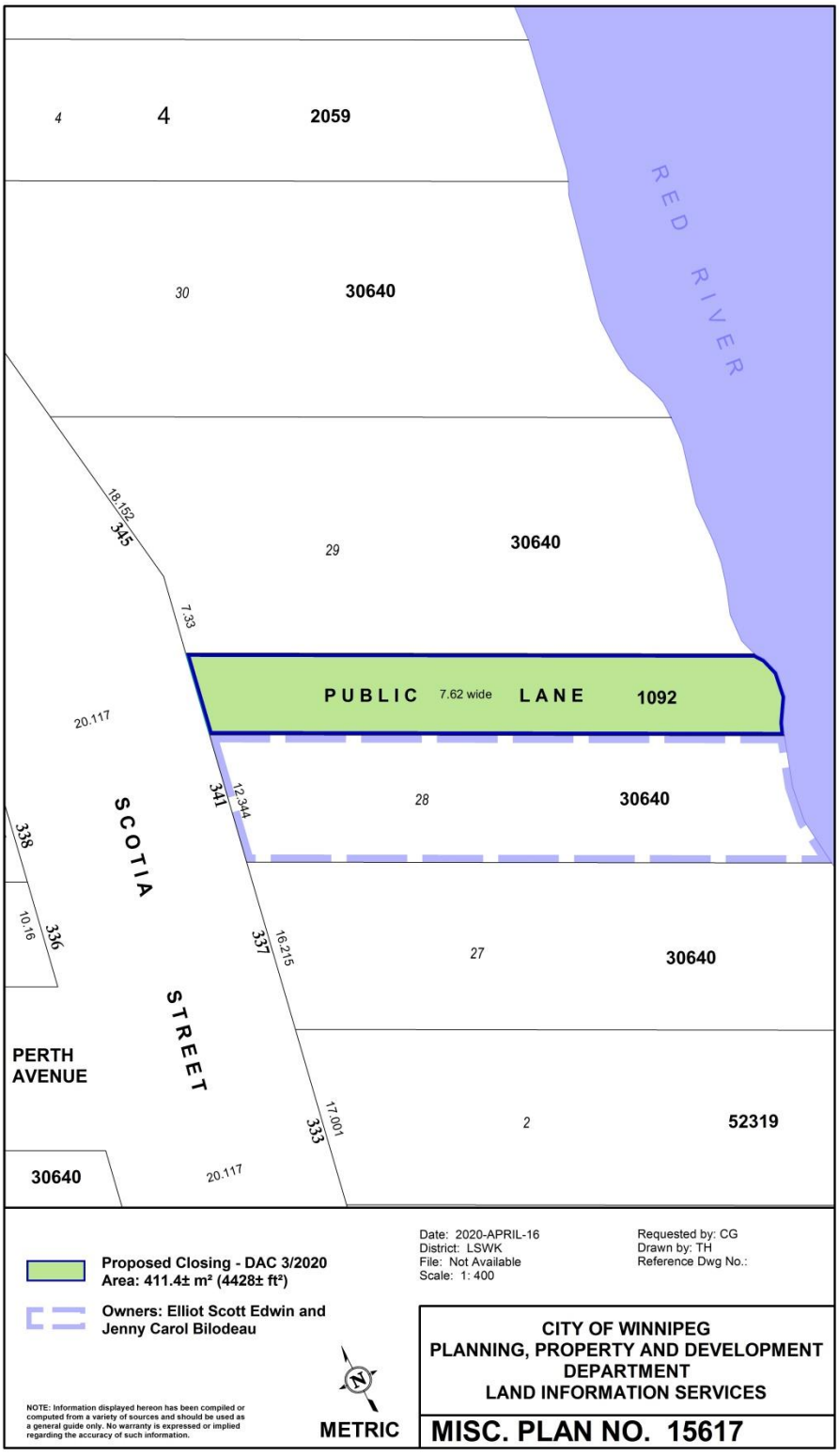
- The applicant or developer and/or purchaser (or assignee) is responsible for all costs associated with the Development Application (DASSF), the preparation of the closing plan, subdivision plan, any associated documents and the registration of all necessary documents at The Property Registry to facilitate the legal closing of the public lane 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.

Urban Planning Division

- The applicant or developer and/or purchaser (or assignee) must consolidate the closed public lane with the adjacent property at 341 Scotia Street..

APPENDIX "B" – MISCELLANEOUS PLAN 15617



APPENDIX "B" – AERIAL VIEW OF SUBJECT CLOSING

