**Minute No. 390**
**Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 19, 2021**

**Item No. 4** **Closing – Public Lane East of St. Anne's Road and West of 204 Hindley Avenue for Inclusion into DASZ 15/2020 (St. Vital Ward) File DAC 2/2020**

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 proposed closing of public lane shown on Miscellaneous Plan No. 15596/3 (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 closing in accordance with Miscellaneous Plan No. 15596/3 subject to:

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

    B. 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 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 (i) above, and Council approves the extension.

**Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 19, 2021**

COUNCIL DECISION (continued):

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 – April 19, 2021**

DECISION MAKING HISTORY:

Moved by Councillor Gilroy,

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 April 21, 2021, 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 19, 2021, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On April 6, 2021, the Riel Community Committee did not concur 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 Miscellaneous Plan No. 15596/3 (attached hereto as Appendix “B”), be approved and the land declared surplus to the City’s needs.

**Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 19, 2021**

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

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 closing in accordance with Miscellaneous Plan No. 15596/3 subject to:

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

    B. 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 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.

**Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 19, 2021**

DECISION MAKING HISTORY (continued):

COMMUNITY COMMITTEE RECOMMENDATION (continued):

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

On March 1, 2021, the Riel Community Committee adjourned the public hearing to its meeting on April 6, 2021 at 10:30 a.m. in the Council Building at 510 Main Street.

On January 4, 2021, the Riel Community Committee adjourned the public hearing to its meeting on March 1, 2021 at 10:30 a.m. in the Council Building at 510 Main Street.

## HEARING SUMMARY

| | |
|---|---|
| **File:** | DAC 2/2020 |
| **Before:** | Riel Community Committee<br>Councillor Chambers, Chairperson<br>Councillor Allard<br>Councillor Mayes |
| **Public Hearing:** | April 6, 2021<br>Council Building, 510 Main Street |
| **Applicant:** | M. Richard and Associates Ltd. |
| **Premises Affected:** | St. Anne's Road and west of 204 Hindley Avenue |
| **For submission to:** | The Standing Policy Committee on Property and Development, Heritage and Downtown Development |
| **Prepared by:** | Rebecca Ford, Committee Clerk<br>Riel Community Committee |
| **Report date:** | April 8, 2021 |

**Community Committee Recommendation:**

On April 6, 2021, the Riel Community Committee did not concur 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 Miscellaneous Plan No. 15596/3 (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 closing in accordance with Miscellaneous Plan No. 15596/3 subject to:

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

    B. 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 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 November 27, 2020
2. Inspection Report
3. Engagement Report dated December, 2020 from the applicant in support of the application
4. Presentation from the applicant in support of the application
5. Presentation from Kurtis Sawatzy in support of the application
6. Parking Management Plan dated January, 2021, from Brody Osadick in support of the application
7. Presentation from Brody Osadick in support of the application
8. Petition in opposition to the application purporting to contain the signatures of 589 area residents, submitted by Patty Mikos, Dairy Delight
9. Communication dated January 4, 2021 from Renata Neufeld, Deputy Director, College of Licensed Practical Nurses of Manitoba, in opposition to the application
10. Communication dated December 22, 2020 from Joe Richard in opposition to the application
11. Notice of Adjournment dated January 6, 2021
12. Communication dated February 26, 2021 from Ryan Ridge requesting adjournment to the April 6, 2021 meeting of the Riel Community Committee
13. Communication from Mark and Emily Egmond in opposition to the application
14. Communication from Voula, Valandi, and Patricia Mikos (Dairy Delight) in opposition to the application
15. Notice of adjournment dated March 3, 2021
16. Communication dated March 29, 2021 from John Wintrup in support of the application

REPRESENTATIONS:

In Support:

Christopher Gibson
Brody Osadick
Ryan Ridge
Matthew Robinson
Kurtis Sawatzky
John Wintrup

In Opposition:

Patty Mikos
Valandi Mikos
Voula Mikos
Renata Neufeld
Joe Richard
Nikki Sherwin
Emily Van Egmond
Mark Van Egmond

For Information:

Nil

For the City:

C. Gagnon, Real Property Officer, Planning, Property and Development Department
E. Finnigan, Planner, Planning Property and Development Department
J. Hildebrand, Planner, Planning Property and Development Department
S. Jerez, Planner, Planning Property and Development Department
D. Trenchard, Land Development Engineer, Planning Property and Development Department

Exhibit "1" referred to in File DAC 2/2020

# ADMINISTRATIVE REPORT

**Title:** Proposed closing of public lane east of St. Anne's Road and west of 204 Hindley Avenue for inclusion into DASZ 15/2020 – File DAC 2/2020

**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

M. Richard and Associates Ltd., representing the owner, submitted an application to close that portion of the north/south public lane east of St. Anne's Road and west of and contiguous to 204 Hindley Avenue for incorporation into DASZ 15/2020. DASZ 15/2020 is an application to subdivide and rezone the adjoining property fronting on St. Anne's Road for the establishment of residential mixed-use development.

The property known as 467 St. Anne's Road ("467 St. Anne's Road") and legally described as Lot 23 Plan 22455 WLTO is not part of application DASZ 15/2020.

The Public Service does not support the application as the proposed closing of the public lane will eliminate access to the parking area at 467 St. Anne's Road.

## RECOMMENDATIONS

1. That the proposed lane closing under DAC 2/2020 not be proceeded with.

## REASON FOR THE REPORT

All street and lane closings must be considered by the Community Committee.

## IMPLICATIONS OF THE RECOMMENDATIONS

There are no policy, regulatory, environmental, human resource, or general implications associated with the recommendation. There are no financial implications for the City of Winnipeg.

## HISTORY/DISCUSSION

M. Richard and Associates Ltd., representing the owner, submitted an application to close that portion of the north/south public lane east of St. Anne's Road and west of and contiguous to 204 Hindley Avenue for incorporation into DASZ 15/2020. DASZ 15/2020 is an application to subdivide and rezone the adjoining property fronting on St. Anne's Road, for the establishment of residential mixed-use development.

Closure of the public lane will eliminate lane access to 467 St. Anne's Road resulting in the property not complying with provisions of Winnipeg Zoning By-law No. 200/2006. Additionally, 467 St Anne's Road does not meet requirements under the Private Access By-law No. 49/2008, to permit a second conforming approach from Hindley Avenue.

The public lane was legally opened by Plan No. 5885 registered in the Winnipeg Land Titles Office on June 24, 1954, and by Plan No. 67098, registered in the said Office on August 18, 2020. It is comprised of a gravel surface and is used by the public-at-large as a thoroughfare between Hindley Avenue and Worthington Avenue and for access to properties adjoining the lane. The Applicant has not provided evidence of support for the proposed closing from those property owners.

The Public Service recommends that the closing not be approved. This is further discussed in Appendix "A".

## CONSULTATION

This Report has been prepared in consultation with:

**Internal Consultation:**

Fire Paramedic Services
Legal Services Department (as to legal issues)
Police Services
Public Works Department
Transit Department
Water and Waste Department

**External Consultation:**

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

Telus Communications, 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: Real Estate and Land Development
Prepared by: Catherine P. Gagnon
Date: November 27, 2020
File No: DAC 2/2020

Attachments:
Appendix "A": Administrative Approval/Comments
Appendix "B": Miscellaneous Plan No. 15596/3
Appendix "C": Aerial View of Subject Closing

**APPENDIX "A" – ADMINISTRATIVE APPROVAL**

The proposal has been considered by all affected City departments and public utilities. Administrative objection and conditional comments follow:

Administrative Comments

*Geomatics Branch*

Approval of this application is subject to the following conditions:

- Registration of Plan Deposit No. 1485/2019 and the appropriate reconfiguration of the proposed closing to reflect the Public Lane opened by Deposit No. 1485/2019.

- The applicant/developer (or assignee) submitting or causing to have submitted a Development Application (DASZ) proposing a plan of subdivision that creates a single Lot or multiple Lots to ensure appropriate/consistent zoning and to facilitate consolidation of the closed right-of-way with the associated adjacent holdings/properties, being SP Lot 22 Plan 22455 and Lot 1 Deposit 1485/2019.

- The applicant/developer/purchaser is responsible for all costs associated with the Development Application (DASZ), the preparation of the closing plan, subdivision plan, any associated documents and the registration of all necessary documents at the Winnipeg Land Titles Office to facilitate the rezoning and the 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 Winnipeg Land Titles Office.

*Urban Planning Division*

- The Public Service wishes to maintain a single through lane whereby all of the properties fronting onto St. Anne's Road, including 467 St. Anne's Road, have access, similar to the existing arrangement.

- The Public Service does not support opening a second dead-end lane servicing a single property.

- 467 St. Anne's Road requires lane access in order for their parking area to be in compliance with the Zoning By-law 200/2006.

*Land Development Branch*

- The closing of the lane up to Hindley would put the parking at 467 St. Anne's into non-compliance with the Zoning By-law 200/2006.

*Public Works Department*

- Under the Private Access By-law No. 49/2008, a second conforming private approach benefitting 467 St. Anne's Road from Hindley Avenue is not possible.

- 467 St. Anne's Road requires lane access in order for their parking area to be in compliance with the Zoning By-law 200/2006.

- If that portion of the public lane adjoining 467 St. Anne's Road were to be legally open, a hammerhead at the opposite end, although possible, is undesirable from a public works maintenance perspective as it creates additional infrastructure requiring maintenance and serves one property. In the event Council chooses to approve the proposed closing, the Public Works Department will require the Developer/Applicant (or assignee) to legally open property to accommodate a public lane abutting 467 St. Anne's Road and the associated hammerhead, including construction of the public lane and associated hammerhead, all to Public Works current standards.

*Water and Waste Department*

- Should the closing result in garbage and recycling collection issues the properties on the remaining lane may be moved to front street collection.

Easements

- BellMTS and Shaw Cablesystems Limited have identified services within the closing area. Should the lane be closed, easements for those existing facilities will be required.

- No permanent structures will be allowed within the easement areas.

- Any removal or relocation of existing facilities as a result of the proposed closing will be at the expense of the developer and/or purchaser (or assignee).

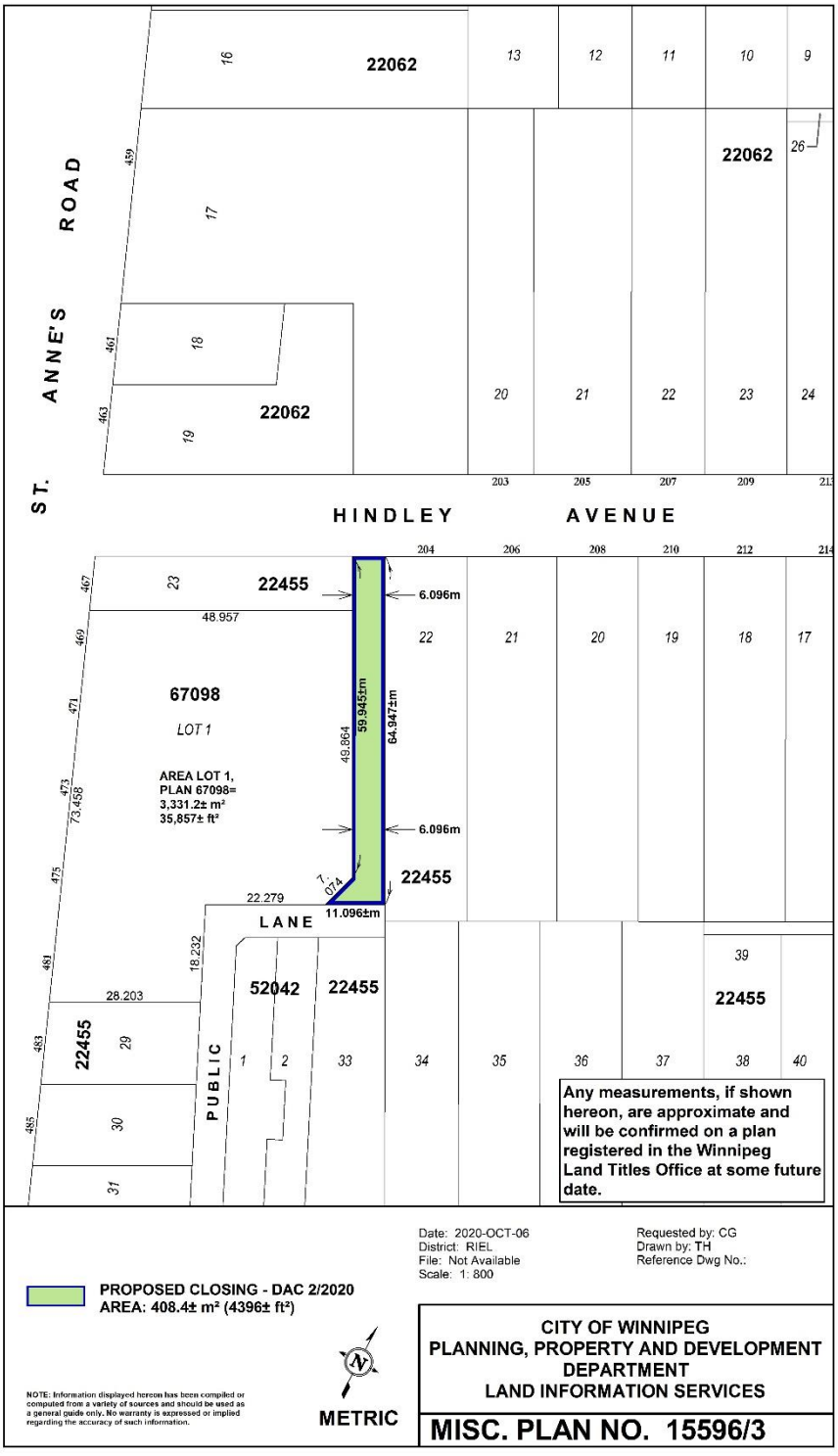
Transfer of Jurisdiction over Public Rights-of-Way

Title to all public rights-of-way in Manitoba is vested with the Province. They must be legally closed to remove the public right-of-way designation before ownership can be transferred to The City of Winnipeg.

Conveyance of Streets for $1.00

The area of the land being created by subdivision and rezoning DASZ 15/2020 exceeds the area of the lane being closed. In accordance with City policy, the lane as shown illustrated and identified on Miscellaneous Plan 15596/3 will be conveyed to the applicant/developer (or assignee) for the nominal sum of $1.00.

## APPENDIX "B" - MISCELLANEOUS PLAN NO. 15596/3



## APPENDIX "C" – AERIAL VIEW OF SUBJECT CLOSING

