Minute No. 687
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 14, 2021

Item No. 16 **Proposed Closing of Part of Ross Avenue, East of McPhillips Street, South of Pacific Avenue**
(Point Douglas Ward)
File DAC 2/2021

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 the street shown on Miscellaneous Plan No. 15707 (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 closings in accordance with Miscellaneous Plan No. 15707 subject to:

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

    B. the 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.

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COUNCIL DECISION (continued):

4. That the City enter into, execute and deliver a Purchase and Sale Agreement with the 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 Purchase and Sale Agreement 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.

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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 September 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 September 14, 2021, 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 September 8, 2021, 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 2/2021
Before:	Lord Selkirk-West Kildonan Community Committee Councillor Sharma, Chairperson Councillor Eadie Councillor Santos
Public Hearing:	September 8, 2021 Council Building, 510 Main Street
Applicant:	Manitoba Building Trades Institute
Premises Affected:	Part of Ross Avenue, east of McPhillips Street, south of Pacific Avenue
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:	September 9, 2021

Community Committee Recommendation:

On September 8, 2021, 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 the street shown on Miscellaneous Plan No. 15707 (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 closings in accordance with Miscellaneous Plan No. 15707 subject to:

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

    B. the 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 a Purchase and Sale Agreement with the 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 Purchase and Sale Agreement 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 June 11, 2021
2. Inspection Report

REPRESENTATIONS:

In Support:

Sudhir Sandhu
Wayne Bollman

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

Exhibit "1" referred to in File DAC 2/2021

ADMINISTRATIVE REPORT

Title: Proposed Closing of part of Ross Avenue, east of McPhillips Street, south of Pacific Avenue

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			

EXECUTIVE SUMMARY

Manitoba Building Trades Institute (the "Purchaser") has applied to the City to close a portion of Ross Avenue east of McPhillips Street, south of Pacific Avenue to accommodate plans to use the land for vehicle ingress/egress, parking, and aesthetic improvements in relation to its adjoining property to the north.

The Public Service recommends approval of the proposed closing. Before the street may be sold and conveyed, it must be legally closed and declared surplus to the City's needs.

RECOMMENDATIONS

1. That, subject to Recommendation 2, the proposed closing of the street shown on Miscellaneous Plan No. 15707 (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 closings in accordance with Miscellaneous Plan No. 15707 subject to:

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

B. the 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 a Purchase and Sale Agreement with the 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 Purchase and Sale Agreement 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

Council approval is required for all closings of public rights-of-way.

As per Section 3(1)(i) of the City Organization By-law No. 7100/1997, only Council can declare City-owned property surplus.

IMPLICATIONS OF THE RECOMMENDATIONS

All costs associated with the proposed closing are the responsibility of the Purchaser or assignee. There are no financial implications for the City of Winnipeg.

HISTORY/DISCUSSION

Manitoba Building Trades Institute (the "Purchaser") has applied to the City to close a portion of Ross Avenue east of McPhillips Street, south of Pacific Avenue to accommodate plans to use the land for vehicle ingress/egress, parking, and aesthetic improvements in relation to its

adjoining property. The property owner to the south of the proposed closing has no objections nor interest in purchasing any part.

Ross Avenue was opened by Plan No. 45 registered in the Winnipeg Land Titles Office September 2, 1874. The street is improved but serves no public transportation purpose and remains open in a legal sense only.

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
Ward Councillor

External Consultation:

Manitoba Hydro, Centra Gas, BellMTS, Bell Canada, Shaw Cablesystems, Telus Communications, Rogers Communications, TC Energy, Fibre.Ca Inc., and Crown Pipeline Ltd., have each indicated that they have no objections to the proposal.

Imperial Oil, Exxon Mobil, Canadian Pacific Railway Company, Canadian National Railway Company, 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: June 11, 2021
File No: DAC 2/2021

Attachments:
Appendix “A”: Administrative Approval/Comments
Appendix B: Miscellaneous Plan No. 15707
Appendix C: Aerial View of Subject Closings

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 purchaser (or assignee) submitting or causing to have submitted a Development Application (DASZ) proposing a plan of subdivision that creates a single Lot or Plan of Survey that creates a single Parcel to facilitate consolidation of the closed right-of-way with the adjacent property legally described as Parcel A Plan 66445 WLTO.

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

- The purchaser (or assignee) is responsible for all costs associated with the above-noted Development Application, the preparation of the closing plan, subdivision or survey plan, any associated documents and the registration of all necessary documents at The Winnipeg Land Titles Office 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 or plan of survey mylars and associated documents for registration in series at The Winnipeg Land Titles Office.

Urban Planning

It is recommended that the closed area be consolidated with the adjoining property.

Commercial Plan Examination

The Manitoba Building Code (the “Code”) Section 3.2.3 ‘Spatial Separation’ requires buildings to be a certain measurement (limiting distance) from either a centerline of a road, or absent a road, the nearest property line, and each building is different. In this case, this ‘limiting distance’ is presumed to have been initially measured from the centerline of the road, and the proposed closing will change that limiting distance, effectively placing the applicant’s property and the adjoining property immediately to the south of the closing area, into non-compliance with the provisions of the Code. To prevent this occurring, the closed area must be consolidated with the property immediately to the north, and no building will be permitted within the most southerly 12 metres perp. of the consolidated land.

Water and Waste Department – Infrastructure

The existing 300 mm combined sewer with catch basin and lead, and manhole services the proposed closing only and, upon acquisition of the land, will be designated as privately owned. The continued maintenance, repair and/or replacement will be at the sole cost and effort of the owner of the land.

Public Works Department

The Purchaser or assignee is required to submit a private access application to the Public Works Department to retain the existing street turnout as a private approach. The Public Works Department advises that there is a wooden pole and guy wire within the proposed closure area which will be on private property once Ross Avenue is closed. The Purchaser or assignee will need to contact Manitoba Hydro to further discuss this.

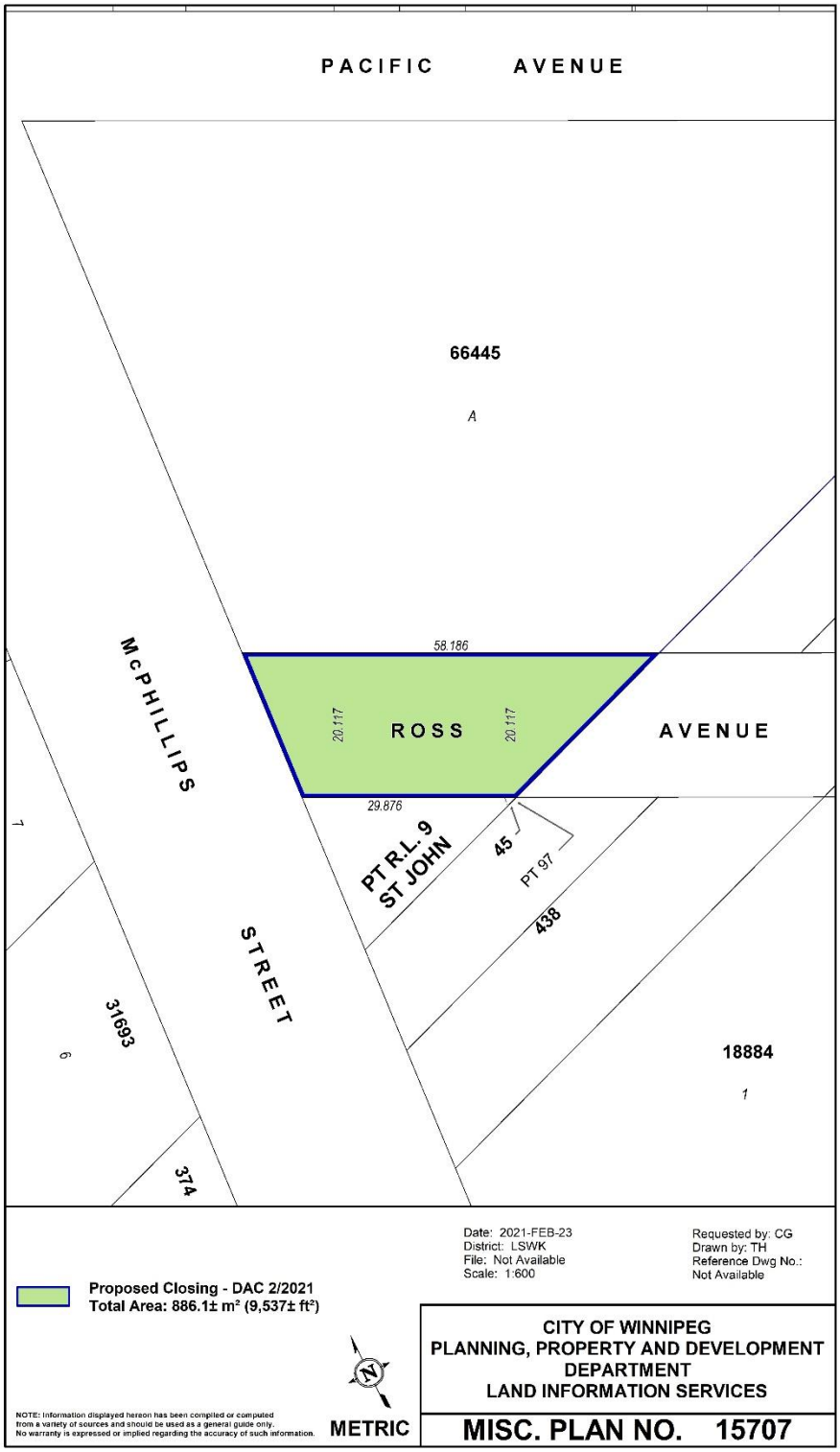
Easements

- Manitoba Hydro identified services within the closing area. The Purchaser or assignee will need to provide easements for those facilities.

No permanent structures will be allowed within the easement areas.

Any removal or relocation of the facilities required as a result of the proposed closing will be at the expense of the Purchaser or assignee.

APPENDIX B - MISC. PLAN 15707



APPENDIX C – AERIAL VIEW OF PROPOSED CLOSING

