Minute No. 392
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – April 5, 2022

Item No. 7 **Closing – 1022 Pembina Highway, 1038 Pembina Highway, 966 Merriam Boulevard and 968 Merriam Boulevard (Fort Rouge-East Fort Garry Ward) File DAC 8/2021 [c/r DASZ 53/2021 and DAV 249811/2021D]**

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 as shown on Misc. Plan No. 15798 (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 Misc. Plan No. 15798 subject to:

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

   B. the Purchaser(s) or assignee(s) 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 subject to Council or its delegated authority's concurrence respecting terms and conditions of sale of the land, the City enter into, execute and deliver a Purchase and Sale Agreement with the Purchaser(s) or assignee(s) 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to implement the intent of the foregoing (the "Ancillary Agreements"), failing which this proposal shall be deemed rescinded and shall not be proceeded with.

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 April 20, 2022, 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 5, 2022, 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.

COMMUNITY COMMITTEE RECOMMENDATION:

On March 25, 2022 the City Centre Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Police Committee on Property and Development, Heritage and Downtown Development.

HEARING SUMMARY

File:	DAC 8/2021
Before:	City Centre Community Committee Councillor Rollins, Chairperson Councillor Gilroy Councillor Orlikow
Public Hearing:	March 25, 2022 Council Building, 510 Main Street
Applicant:	Pre-Con Builders Ltd. (Robin Lee)
Premises Affected:	1022 Pembina Highway, 1038 Pembina Highway, 966 Merriam Boulevard and 968 Merriam Boulevard
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:	March 28, 2022

Community Committee Recommendation:

On March 25, 2022, 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. That subject to Recommendation 2, the proposed closing as shown on Misc. Plan No. 15798 (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 Misc. Plan No. 15798 subject to:

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

    B. the Purchaser(s) or assignee(s) 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 subject to Council or its delegated authority's concurrence respecting terms and conditions of sale of the land, the City enter into, execute and deliver a Purchase and Sale Agreement with the Purchaser(s) or assignee(s) 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"), failing which this proposal shall be deemed rescinded and shall not be proceeded with.

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 February 11, 2022
2. Inspection Report
3. Communication dated March 19, 2022, from Stephanie Wicks with respect to the application
4. Presentation in support of the application, submitted by Christopher Gibson on March 22, 2022
5. Communication dated March 9, 2022 from Sheldon Zipursky, Excel Leasing Inc. in support of the application, submitted by Christopher Gibson on March 22, 2022
6. Communication dated March 17, 2022 from Kevin Kaniuga in support of the application, submitted by Christopher Gibson on March 22, 2022
7. Communication dated March 18, 2022 from James O'Brien in support of the application, submitted by Christopher Gibson on March 22, 2022
8. Communication dated September 10, 2021 from Scott Schriemer, VIC's Fruit Market Ltd. in support of the application, submitted by Christopher Gibson on March 22, 2022
9. Communication dated March 24, 2022 from Laura Smith in opposition to the application

REPRESENTATIONS:

In Support:

Christopher Gibson
Kevin Kaniuga
Robin Lee
Matthew Narvey
James O'Brien
Scott Schriemer
Karen Shanski
Jason van Rooy
Sheldon Zipursky

In Opposition:

Laura Smith

For Information:

Kim Nydopytalsky-Unrau
Stephanie Wicks

For the City:

C. Gagnon, Real Property Officer, Planning, Property and Development Department
A. Ross, Planner, Planning, Property and Development Department
D. Harris, Planner, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 8/2021

ADMINISTRATIVE REPORT

Title: Proposed Closing of part of Public Lane east of 1022 Pembina Highway, west of 968 Merriam Boulevard for incorporation into DASZ 53/2021

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			

EXECUTIVE SUMMARY

Pre-Con Builders Ltd., on behalf of 1022 Pembina Ltd. (the "Purchaser(s)"), has submitted an application to close a part of the public lane east of 1022 Pembina Highway and west of 968 Merriam Boulevard for incorporation into the planned area under development application DASZ 53/2021 intended to establish a residential mixed-use district to facilitate the construction of a multi-family dwelling and permit the continued maintenance of a commercial building.

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

RECOMMENDATIONS

1. That subject to Recommendation 2, the proposed closing as shown on Misc. Plan No. 15798 (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 Misc. Plan No. 15798 subject to:

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

   B. the Purchaser(s) or assignee(s) 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 subject to Council or its delegated authority's concurrence respecting terms and conditions of sale of the land, the City enter into, execute and deliver a Purchase and Sale Agreement with the Purchaser(s) or assignee(s) 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"), failing which this proposal shall be deemed rescinded and shall not be proceeded with.

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

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

Pursuant to section 12(1)(b) of Development Procedures By-law No. 104/2020, the relevant Community Committee is the hearing body for a combined hearing where a matter relates to a site located entirely within the geographical boundaries of one community and no part of the site is within the area to which the Downtown Winnipeg Zoning By-law applies.

Pursuant to section 12(2) of Development Procedures By-law No. 104/2020, a designated employee is authorized to determine that a public hearing in respect of a development application be combined with a development application for the legal closing of a street.

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 closing are the responsibility of the Purchaser(s) or assignee(s). There are no financial implications for the City of Winnipeg.

HISTORY/DISCUSSION

Pre-Con Builders Ltd., on behalf of 1022 Pembina Ltd. (the "Purchaser"), has submitted an application to close a part of the public lane east of 1022 Pembina Highway and west of 968 Merriam Boulevard for incorporation into the planned area under development application DASZ 53/2021 intended to establish a residential mixed-use district to facilitate the construction of a multi-family dwelling and permit the continued maintenance of a commercial building.

Manitoba Hydro, Centra Gas, BellMTS, Bell Canada, Shaw Cablesystems, Rogers Communications, TC Energy, Imperial Oil, Fibre.Ca Inc., and Crown Pipeline Ltd., have all indicated that they have no concerns or objections.

Telus Communications, Canadian National Railway, Canadian Pacific Railway, and Teraspan Networks did not respond to the request for comment on this application.

The public lane was opened by Plan No. 1688 registered in the Winnipeg Land Titles Office on September 23, 1911. Pursuant to By-law No. 3768 approved by the Rural Municipality of Fort Garry on May 10, 1955, a portion of the lane was later widened by Plan No. 6139 registered in the said Office on July 27, 1955.

CONSULTATION

This Report has been prepared in consultation with:
Fire Paramedic Services
Legal Services Department (as to legal issues)
Police Services
Public Works Department
Transit Department
Water and Waste Department
Ward Councillor

OURWINNIPEG POLICY ALIGNMENT

The closing area will be incorporated into the planned area for DASZ 53/2021. Alignment with OurWinnipeg 2045(pending third reading) will be determined through that application.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

The closing area will be incorporated into the planned area for DASZ 53/2021. Alignment with the Climate Action Plan will be determined through that application.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

The closing area will be incorporated into the planned area for DASZ 53/2021. Alignment with the Poverty Reduction Strategy will be determined through that application.

SUBMITTED BY

Department: Planning, Property and Development Department
Division: Real Estate and Land Development
Prepared by: Catherine P. Gagnon
Date: February 11, 2022
File No: DAC 8/2021

Attachments:
APPENDIX A - Administrative Approval
APPENDIX B - Miscellaneous Plan 15798
APPENDIX C - Aerial Diagram showing proposed closing

APPENDIX A – ADMINISTRATIVE APPROVAL

Geomatics and Land Information Services

- The proposed closing is subject to approval of associated subdivision and rezoning application DASZ 53/2021.

- The closing plan mylars, closing By-law, Transfer and any other associated documents are registered in series with and prior to the associated plan of subdivision for DASZ 53/2021. The closing plan mylars, closing By-law, Transfer and any other associated documents will be released together with Plan of Subdivision mylars for DASZ 53/2021.

- The purchaser (or assignee) is responsible for all costs related to preparation of the necessary closing plan and any associated documents and registration of same at the Winnipeg Land Titles Office.

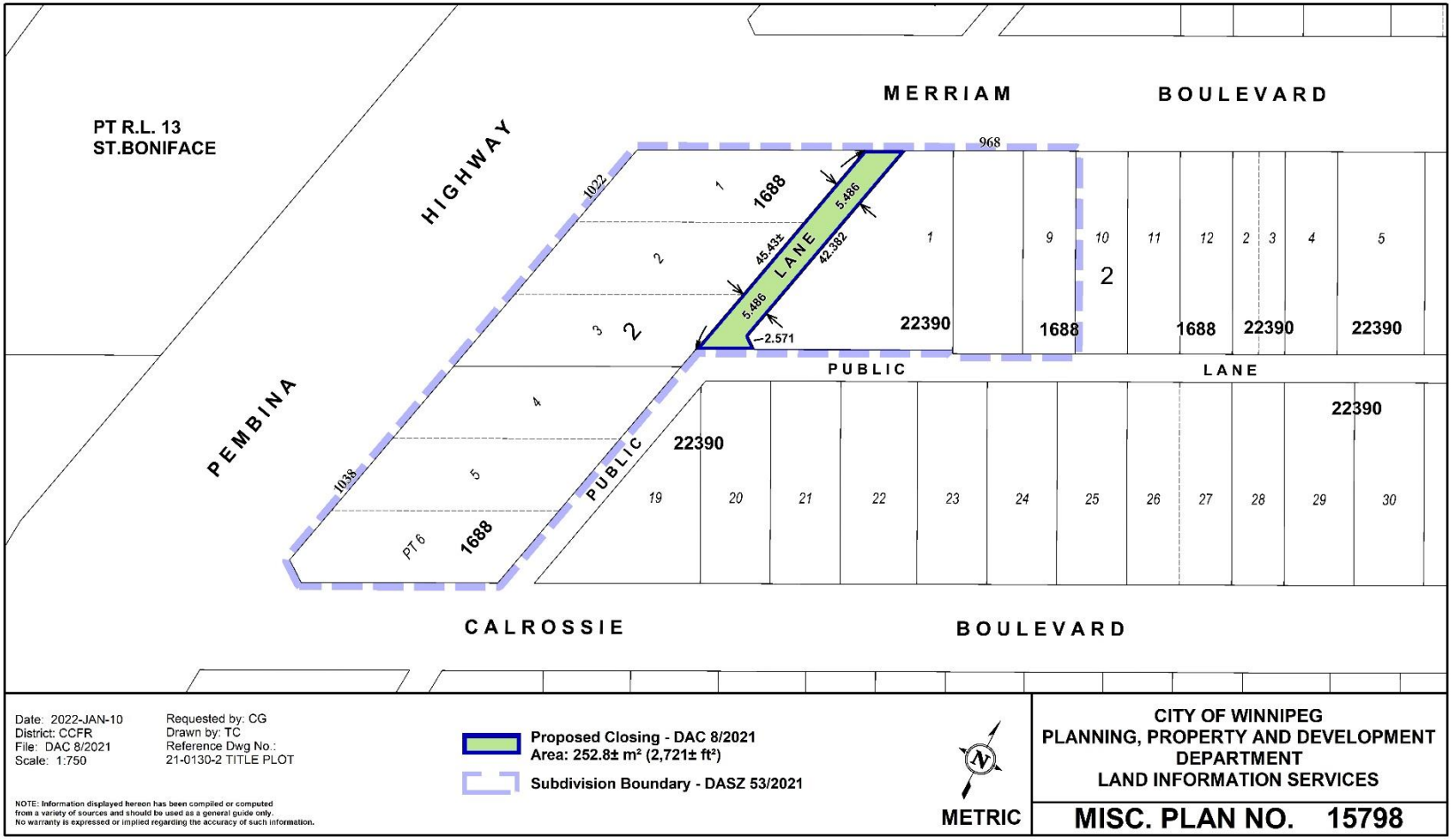
Easements:

- Shaw Cablesystems has identified services within the closing area. The Purchaser(s) or assignee(s) will need to provide easements and enter into agreements as may be required by the Utilities.

- Manitoba Hydro and Centra Gas Manitoba have indicated that they will secure necessary easements under DASZ 53/2021.

- Permanent structures located within the easement areas will not be allowed. Any removal or relocation of existing facilities required because of the proposed closing will be at the expense of the Purchaser(s) or assignee(s).

APPENDIX B – MISC. PLAN NO. 15798



APPENDIX C – AERIAL VIEW OF SUBJECT CLOSING

