Agenda – Council – May 26, 2022

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 9, 2022

Item No. 9 **Proposed Closing of Whitehorn Crescent and Public Lanes Southeast of Warde Avenue and West of Evelyne Reese Boulevard for Incorporation into DASZ 12/2022**
(St. Vital Ward)
File DAC 1/2022 [c/r DASZ 12/2022]

STANDING COMMITTEE RECOMMENDATION:

On May 18, 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 following to Council:

1. That subject to Recommendation 2, the proposed closings as shown on Misc. Plan No. 15819 (attached hereto as Appendix B) 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 closings in accordance with Misc. Plan No. 15819 subject to:

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

    B. The Purchaser 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 Recommendation A above, and Council approves the extension.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 9, 2022

STANDING COMMITTEE RECOMMENDATION (continued):

4. That subject to Recommendation 2, 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to implement the intent of the foregoing (the "Ancillary Agreements"), failing which this proposal shall be deemed rescinded and shall not be proceeded with.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.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 9, 2022

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 18, 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 May 9, 2022, 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 26, 2022 the Riel 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 1/2022
Before:	Riel Community Committee Councillor Allard, Chairperson Councillor Chambers Councillor Mayes
Public Hearing:	April 26, 2022 Council Building, 510 Main Street
Applicant:	Genstar Development Company (Marc Brown)
Premises Affected:	Whitehorn Crescent and Public Lanes Southeast of Warde Avenue and West of Evelyne Reese Boulevard for Incorporation into DASZ 12/2022
For submission to:	The Standing Policy Committee on Property and Development, Heritage and Downtown Development
Prepared by:	Kate McMillan, Committee Clerk Riel Community Committee
Report date:	April 26, 2022

Community Committee Recommendation:

On April 26, 2022, the Riel 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 closings as shown on Misc. Plan No. 15819 (attached hereto as Appendix B) 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 closings in accordance with Misc. Plan No. 15819 subject to:

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

    B. The Purchaser 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 Recommendation A above, and Council approves the extension.

4. That subject to Recommendation 2, 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 March 31, 2022
2. Inspection Report

REPRESENTATIONS:

In Support:

Marc Brown

In Opposition:

Nil

For Information:

Nil

For the City:

E. Finnigan, Planner, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 1/2022

ADMINISTRATIVE REPORT

Title: Proposed Closing of Whitehorn Crescent and public lanes southeast of Warde Avenue and west of Evelyne Reese Boulevard for incorporation into DASZ 12/2022
File DAC 1/2022

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			

EXECUTIVE SUMMARY

Genstar Development Company (the "Purchaser") has submitted an application to close Whitehorn Crescent and the public lanes southeast of Warde Avenue and west of Evelyne Reese Boulevard for incorporation into the planned area under development application DASZ 12/2022 intended to establish "R1-S" residential single-family (small), "R2" residential two-family (medium), "RMF-S" residential multi-family (small), "RMF-L" residential multi-family (large), and "PR1" parks and recreation 1 (neighbourhood) districts.

The Public Service recommends approval of the proposed closings. Before the road and lanes may be conveyed, they must be legally closed and declared surplus to the City's needs.

RECOMMENDATIONS

1. That subject to Recommendation 2, the proposed closings as shown on Misc. Plan No. 15819 (attached hereto as Appendix B) 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 closings in accordance with Misc. Plan No. 15819 subject to:

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

    B. the Purchaser 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 Recommendation A above, and Council approves the extension.

4. That subject to Recommendation 2, 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 or assignee(s). There are no financial implications for the City of Winnipeg.

HISTORY/DISCUSSION

Genstar Development Company (the "Purchaser"), has submitted an application to close Whitehorn Crescent and the public lanes southeast of Warde Avenue and west of Evelyne Reese Boulevard for incorporation into the planned area under development application DASZ 12/2022 intended to establish "R1-S" residential single-family (small), "R2" residential two-family (medium), "RMF-S" residential multi-family (small), "RMF-L" residential multi-family (large), and "PR1" parks and recreation 1 (neighbourhood) districts.

Whitehorn Crescent and the public lanes proposed to be closed were created by plan of subdivision No. 58702 registered in the Winnipeg Land Titles Office on December 30, 2015. They are unimproved and serve no public transportation purpose.

Section 3.4.A of the Declaration as Surplus and Sale of Property Policy No. PD-026 adopted by City Council on September 29, 2021 provides:

- All roads closed through a Development Application shall be purchased at market value, without credit for any other road openings unless the road intended to be closed was opened within the past 20 years or extenuating circumstances exist.

The Real Estate Branch recommends that if the area comprising the proposed closings amounts to an overall area that is less than the roads and lanes proposed to be opened by the plan of subdivision for DASZ 12/2022, the land be conveyed at no cost. However, if the area of the proposed openings amounts to less than the area of the proposed closings, the difference in the land area be sold at fair market value and sale proceeds be credited to the City's Land Operating Reserve Fund.
Manitoba Hydro, Centra Gas, BellMTS, Bell Canada, Shaw Cablesystems, Rogers Communications, Telus Communications, TC Energy, Imperial Oil, Fibre.Ca Inc., and Crown Pipeline Ltd., have all indicated that they have no concerns or objections.

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

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 12/2022. 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 12/2022. 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 12/2022. 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: March 31, 2022
File No: DAC 1/2022

Attachments:
APPENDIX A - Administrative Approval
APPENDIX B - Miscellaneous Plan 15819
APPENDIX C - Aerial Diagram showing the proposed closing

APPENDIX A – ADMINISTRATIVE APPROVAL

Geomatics and Land Information Services

- The proposed closing is subject to approval of associated DASZ 12/2022.

- The closing plan mylars, closing By-law and any associated documents are to be released along with the plan of subdivision mylars for DASZ 12/2022 and any associated documents and subsequently registered in series with and prior to the associated plan of subdivision.

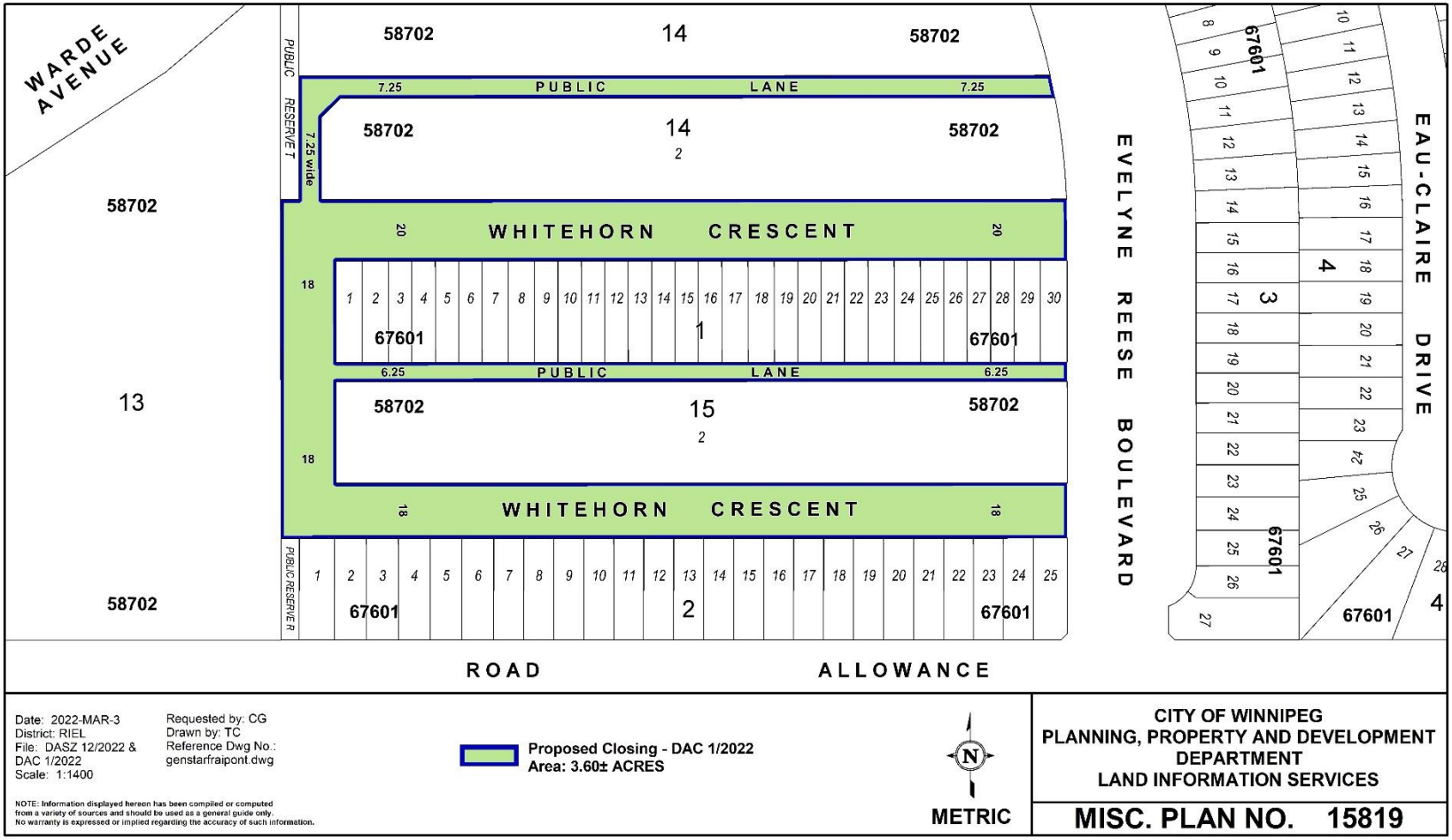
- The applicant is responsible for all costs related to preparation of the necessary closing plan and any associated/necessary documents and registration of same at the Winnipeg Land Titles Office.

Easements:

- Manitoba Hydro and Centra Gas Manitoba have indicated that they will secure necessary easements under DASZ 12/2022.

- 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. 15819



APPENDIX C – AERIAL VIEW OF SUBJECT CLOSING

