Minute No. 169
Report – Standing Policy Committee on Property and Development – January 9, 2023

Item No. 3 **Closing – Fernbank Avenue and a Portion of Rivergrove Boulevard South of and Immediately Adjoining 2695 Main Street (North Kildonan Ward)**
File DAC 7/2021

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the closing of Fernbank Avenue and part of Rivergrove Drive proposed under DAC 7/2021 be rejected.

2. 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 – January 9, 2023

DECISION MAKING HISTORY:

Moved by Councillor Rollins,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 17, 2023, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 9, 2023, the Standing Policy Committee on Property and Development concurred in the recommendation of the East Kildonan-Transcona Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 3, 2023 the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and forwarded the matter to the Standing Policy Committee on Property and Development.

On November 15, 2022, the East Kildonan-Transcona Community Committee did not hear any representation on the application and adjourned the public hearing to its meeting on January 3, 2023 at 10:30 a.m. in the Council Building at 510 Main Street.

HEARING SUMMARY

File:	DAC 7/2021
Before:	East Kildonan-Transcona Community Committee Councillor Browaty, Chairperson Councillor Schreyer Councillor Wyatt
Public Hearing:	January 3, 2023 November 15, 2022 Council Building, 510 Main Street
Applicant:	Rivergrove Mobile Home Estates Ltd.
Premises Affected:	2695 Main Street
For submission to:	The Standing Policy Committee on Property and Development
Prepared by:	Tamara Pomanski, Committee Clerk East Kildonan-Transcona Community Committee
Report date:	January 3, 2023

Community Committee Recommendation:

On January 3, 2023, the East Kildonan-Transcona Community Committee concurred in the recommendation of the Winnipeg Public Service and recommended to the Standing Policy Committee on Property and Development:

1. That the closing of Fernbank Avenue and part of Rivergrove Drive proposed under DAC 7/2021 be rejected.

2. 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 October 5, 2022
2. Inspection Report
3. Communication dated November 3, 2022, from Gerald Pronyk in opposition to the application
4. Communication dated November 3, 2022, from Lydia Pronyk in opposition to the application
5. Communication dated November 3, 2022, from Matt and Mary Sobocan in opposition to the application
6. Communication dated November 3, 2022, from John Edward Reda in opposition to the application
7. Communication dated November 4, 2022, from Brenden Stubler in opposition to the application
8. Communication dated November 4, 2022, from Anna Tarasiuk in opposition to the application
9. Communication dated November 4, 2022, from Brian Lukie in opposition to the application
10. Revised Report from the Real Property Officer dated October 5, 2022
11. Communication dated November 8, 2022, from Jim Loewen in opposition to the application
12. Communication dated November 8, 2022, from Jennifer Werhun in opposition to the application
13. Communication dated November 8, 2022, from Don Cilinsky in opposition to the application
14. Communication dated November 8, 2022, from Anne Marie Bell in opposition to the application
15. Communication dated November 9, 2022, from Grant Solar in opposition to the application
16. Communication dated November 9, 2022, from Donna Schirmacher in opposition to the application
17. Communication dated November 9, 2022, from Alfred Schirmacher in opposition to the application
18. Communication dated November 9, 2022, from Yvette Solar in opposition to the application
19. Communication dated November 8, 2022, from Margaret Reda in opposition to the application
20. Communication dated November 14, 2022, from Eleanor Finlay in opposition to the application
21. Communication dated November 13, 2022, from Stacy Macaluso in opposition to the application
22. Communication dated November 13, 2022, from Maxwell Macaluso in opposition to the application

Exhibits Filed (continued):

23. Communication dated November 13, 2022, from Michael Macaluso in opposition to the application
24. Communication dated November 13, 2022, from Sokol Hoxha in opposition to the application
25. Communication dated November 12, 2022, from Karl Koenig in opposition to the application
26. Communication dated November 12, 2022, from Irene Koenig in opposition to the application
27. Communication dated November 12, 2022, from Kristina Koenig in opposition to the application
28. Communication dated November 13, 2022, from John Edward Reda in opposition to the application
29. Communication dated November 12, 2022, from Dawn Rittberg in opposition to the application
30. Communication dated November 11, 2022, from Jodi McCallum in opposition to the application
31. Communication dated November 11, 2022, from Irene Girardin in opposition to the application
32. Communication dated November 11, 2022, from Cathy Jablonowski in opposition to the application
33. Communication dated November 10, 2022, from Deborah G. Karpenko in opposition to the application
34. Communication dated November 10, 2022, from Chris Lorenc in opposition to the application
35. Communication dated November 14, 2022, from Markian McColl in opposition to the application
36. Communication dated November 14, 2022, from Andrew Romanovych in opposition to the application
37. Communication from Michael Shkolny in opposition to the application
38. Notice of Adjournment dated November 16, 2022
39. Communication dated December 29, 2022, from Michael Shkolny in opposition to the application
40. Communication dated December 29, 2022, from Darlene Shkolny in opposition to the application
41. Communication dated December 30, 2022, from Grant Solar in opposition to the application
42. Communication dated December 30, 2022, from Don Cilinsky in opposition to the application
43. Recording of Representations of public hearing held on January 3, 2023

REPRESENTATIONS:

In Support:

Guido Cerasani
Mark Hearson

In Opposition:

Anne Marie Bell
Don Cilinsky
Eleanor Finlay
Irene Girardin
Sokol Hoxha
Cathy Jablonowski
Deborah Karpenko
Irene Koenig
Karl Koenig
Kristina Koenig
Bev Kowal
Jim Loewen
Chris Lorenc
Brian Lukie
Maxwell Macaluso
Michael Macaluso
Stacy Macaluso
Jodi McCallum
Markian McColl
Gloria Mendelson
Gerald Pronyk
Lydia Pronyk
John Edward Reda
Margaret Reda
Dawn Rittberg
Andrew Romanovych
Alfred Schirmacher
Donna Schirmacher
Darlene Shkolny
Michael Shkolny
Mary Sobocan
Matt Sobocan
Grant Solar
Yvette Solar
Brendan Stubler
Anna Tarasiuk
Jennifer Werhun

For Information:

Nil

For the City:

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

Exhibit "10" referred to in File DAC 7/2021

ADMINISTRATIVE REPORT - REVISED

Title: Proposed Closing of Fernbank Avenue and a portion of Rivergrove Boulevard south of and immediately adjoining 2695 Main Street – File DAC 7/2021

Critical Path: East Kildonan-Transcona 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

Rivergrove Mobile Home Estates Ltd. has submitted an application to close for purchase Fernbank Avenue and a portion of Rivergrove Drive on the east side of Main Street as shown on Misc. Plan No. 15824/3 (attached as Appendix A), and on the aerial snapshot of the proposed closing area (attached as Appendix B). The closing and purchase will facilitate the relocation of existing approaches serving 2695 Main Street to align with the existing Fernbank Avenue west of Main Street; this is a requirement of Council's approval of Development Application DAZ 205/2019. Before public rights-of-way may be conveyed, they must be legally closed and declared surplus to the City's needs.

Fernbank Avenue and the portion of Rivergrove Drive proposed to be closed are currently unimproved and while they serve no public transportation purpose, they do serve as a Primary Line of Defense for flood protection and contain existing infrastructure vital to the City's fire protection services and water service for the neighbourhood to the south. Because of this, the Public Service does not support the proposal as detailed in the Administrative Comments (attached as Appendix C).

RECOMMENDATIONS

That the closing of Fernbank Avenue and part of Rivergrove Drive proposed under DAC 7/2021 be rejected.

REASON FOR THE REPORT

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

Council approval is required for all closings of public rights-of-way.
The City Organization By-law No. 7100/1997 provides that, before public rights-of-way may be conveyed, they must be legally closed and declared surplus to the City's needs.

IMPLICATIONS OF THE RECOMMENDATIONS

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

HISTORY/DISCUSSION

Rivergrove Mobile Home Estates Ltd. has submitted an application to close for purchase Fernbank Avenue and a portion of Rivergrove Drive on the east side of Main Street shown illustrated and identified on Misc. Plan No. 15824/3 (attached as Appendix A), and on the aerial snapshot of the proposed closing area (attached as Appendix B). The closing and purchase will facilitate the relocation of existing approaches serving 2695 Main Street to align with the existing Fernbank Avenue west of Main Street; this is a requirement of Council's approval of Development Application DAZ 205/2019. Before public rights-of-way may be conveyed, they must be legally closed and declared surplus to the City's needs.

Fernbank Avenue and the portion of Rivergrove Drive proposed to be closed are currently unimproved and, while they serve no public transportation purpose, they do serve as a Primary Line of Defense for flood protection, and contain existing infrastructure vital to the City's fire protection services and water service for the neighbourhood to the south. Because of this, the Public Service does not support the proposal as detailed in the Administrative Comments (attached as Appendix C).

At its meeting of July 18, 2019, Council approved Development Application DAZ 205/2019 to rezone a portion of 2695 Main Street. A condition of that approval was that no private approach be connected to Rivergrove Drive. Rivergrove Mobile Home Estates Ltd. subsequently submitted Development Application ZAA 3/2022 to have this condition removed from Zoning Agreement DAZ 205/2019. Although the amendment to have this condition removed was supported by the Public Service, Council, at its meeting of September 22, 2022, rejected ZAA 3/2022.

Fernbank Avenue east of Main Street and Rivergrove Drive were opened by Plan 19456 registered in the Winnipeg Land Titles Office on October 30, 1985.

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:

BellMTS, Bell Canada, Shaw Cablesystems, TC Energy, Fibre.Ca Inc., Imperial Oil, Exxon Mobil, Canadian Pacific Railway Company, and Crown Pipeline Ltd., have each indicated that they have no objections to the proposal. Manitoba Hydro, Centra Gas, Telus Communications, Rogers Communications, 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 proposed closing does not contravene OurWinnipeg or the Complete Communities Direction Strategy.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

The proposed closing does not contravene the Winnipeg Climate Action Plan Alignment.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

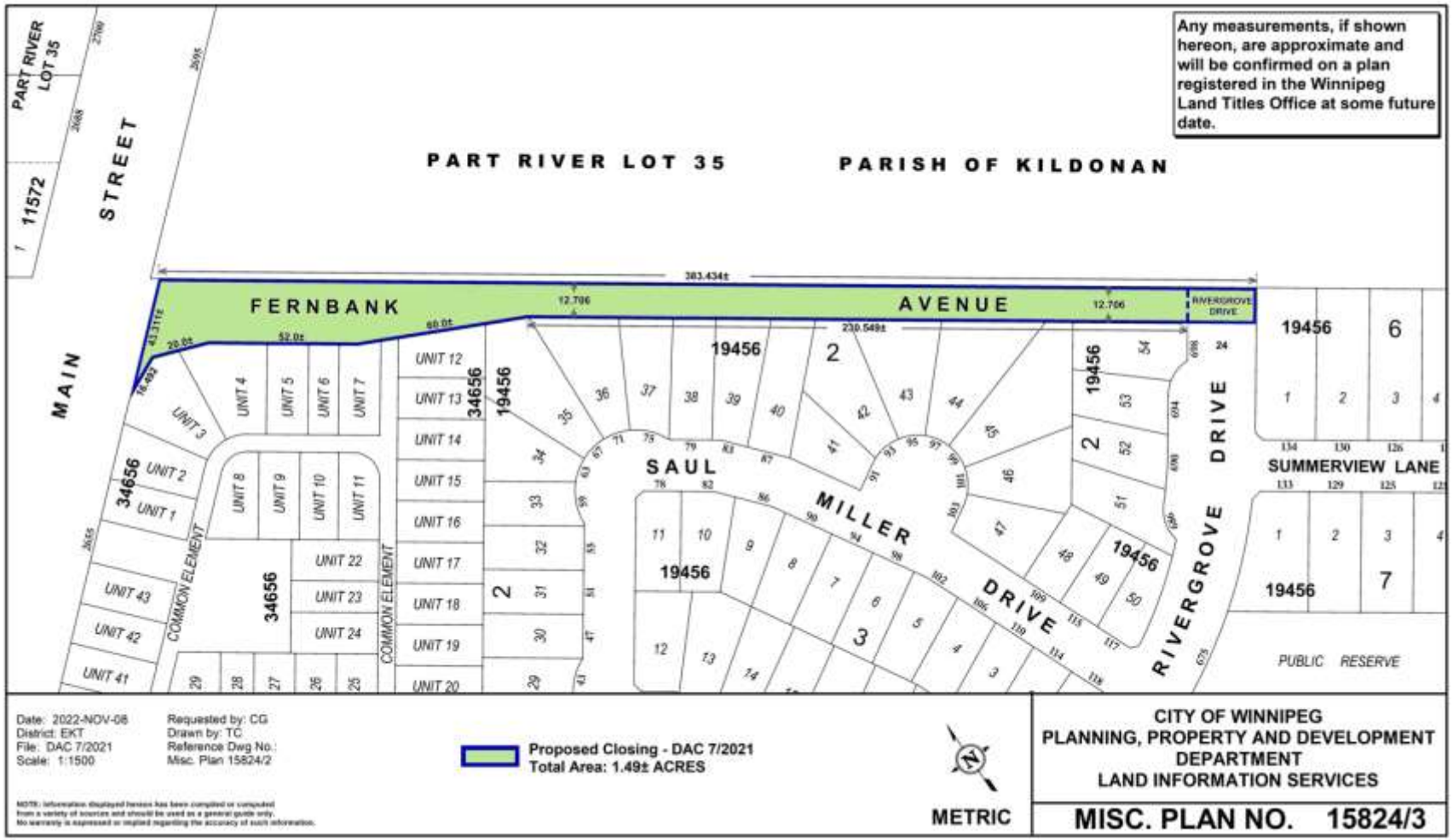
N/A

SUBMITTED BY

Department: Planning, Property and Development Department
Division: Real Estate and Land Development
Prepared by: Catherine P. Gagnon
Date: October 5, 2022
File No: DAC 7/2021

Attachments:
Appendix A: Miscellaneous Plan No. 15824/3
Appendix B: Aerial View of Subject Closing
Appendix C: Administrative Comments

APPENDIX A - MISC. PLAN 15824/3



APPENDIX B – AERIAL OF PROPOSED CLOSING



APPENDIX C – ADMINISTRATIVE COMMENTS

Should the closing be approved and the land sold:

Geomatics and Land Information Services

- The Purchaser(s) or assignee(s) must submit or cause to have submitted a Development Application (DASZ) proposing a plan of subdivision that creates a single lot to facilitate consolidation of their adjacent holding with the closed public street (portion of Fernbank Avenue east of Main Street).

- The applicant or developer and/or purchaser (or assignee) 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 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 and associated documents for registration in series at The Winnipeg Land Titles Office.

Land Development Branch

An existing zoning approval for adjacent property at 2695 Main Street requires that access be taken from Fernbank Avenue. As such, the proposed closing land must be consolidated with 2695 Main Street. A development agreement amendment may be required as a condition of the sale.

The closed right-of-way land will take on the zoning designation of ~~the~~ surrounding lands. It must be consolidated with 2695 Main Street as a single lot and rezoned through a DASZ application.

Water and Waste Department

The Department does not support the closing because:

(i) Fernbank Avenue and the portion of Rivergrove Drive proposed to be closed serve as a Primary Line of Defense for flood protection; and

(ii) there is existing infrastructure within the proposed closing area which is vital to the City's fire protection services and to water service for the neighbourhood to the south.

If the closing is approved and the land sold:

- the existing LDS main and catch basins will serve the closing area only and 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.

- the Purchaser(s) or assignee(s) will need to provide easements as required by and to the satisfaction of the City.
- no permanent structures will be allowed within the easement areas and any removal or relocation of the facilities required as a result of the proposed closing will be at the expense of the Purchaser(s) or assignee(s).

Winnipeg Transit

The Winnipeg Transit Master Plan approved by Council on April 29, 2021, incorporates a bus route on Main Street, requiring a bus loop and associated works at or in close proximity to Fernbank Avenue. The aforementioned Development Application and plan of subdivision will need to facilitate the bus loop and associated works.

Easements

Manitoba Hydro and Shaw Cable have each identified services within the closing area.

Should the closing be approved and the land sold, the Purchaser(s) or assignee(s) will need to provide easements for those facilities as noted above.

No permanent structures will be allowed within the easement areas and any removal or relocation of the facilities required as a result of the proposed closing will be at the expense of the Purchaser(s) or assignee(s).