Minute No. 170
Report – Standing Policy Committee on Property and Development – January 9, 2023

Item No. 4 **Closing – Part of Public Lane East of, and Parts of Century Street East and South of 243 Queen Street (St. James Ward) File DAC 4/2022**

COUNCIL DECISION:

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

1. That the street closing under File DAC 4/2022 be rejected.

2. 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 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 Assiniboia Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 4, 2023, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, and recommended to the Standing Policy Committee on Property and Development that the street closing under File DAC 4/2022 be rejected.

On November 21, 2022, the Assiniboia Community Committee did not hear any representation on the application and adjourned the hearing to its meeting on January 4, 2023 at 10:30 a.m. in the Council Building at 510 Main Street, at the request of the Applicant.

HEARING SUMMARY

File:	DAC 4/2022
Before:	Assiniboia Community Committee Councillor Lukes, Chairperson Councillor Dobson Councillor Duncan
Public Hearing:	January 4, 2023 November 21, 2022 Council Building, 510 Main Street
Applicant:	McGowan Russell Group Inc. (Jackie Wilkie)
Premises Affected:	243 Queen Street
For submission to:	The Standing Policy Committee on Property and Development
Prepared by:	L. Cowan, Senior Committee Clerk Assiniboia Community Committee
Report date:	January 4, 2023

Community Committee Recommendation:

On January 4, 2023, the Assiniboia Community Committee concurred in the recommendation of the Winnipeg Public Service, and recommended to the Standing Policy Committee on Property and Development that the street closing under File DAC 4/2022 be rejected.

Exhibits Filed:

1. Report from the Real Property Officer dated October 6, 2022
2. Inspection Report
3. Communication dated November 7, 2022 from Milton Bogoch in support of the application
4. Communication dated November 21, 2022 from Jackie Wilkie in support of the application
5. Notice of Adjournment dated December 21, 2022
6. Communication dated January 4, 2023 from Jackie Wilkie in support of the application

REPRESENTATIONS:

In Support:

Milton Bogoch
Jackie Wilkie

In Opposition:

Nil

For Information:

Nil

For the City:

D. Clark, Urban Planner, Planning, Property and Development Department
C. Gagnon, Real Property Officer, Planning, Property and Development Department
R. Galston, Urban Planner, Planning, Property and Development Department

Exhibit "1" referred to in File DAC 4/2022

ADMINISTRATIVE REPORT

Title: Proposed Closing of part of public lane east of, and parts of Century Street east and south of 243 Queen Street. DAC 4/2022

Critical Path: Assiniboia 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

The McGowan Russell Group Inc., on behalf of the Owner of 243 Queen Street, has submitted an application to close for purchase part of the public lane east of, and parts of Century Street east and south of, 243 Queen Street shown illustrated and identified on Misc. Plan No. 15838/1 (attached as Appendix A) and on the aerial snapshot of the proposed closings areas (attached as Appendix B). The closing and purchase are intended to facilitate development and construction of security fencing and gates to improve safety of the residents of 243 Queen Street and to protect their private property and parked vehicles from vandalism and theft.

There is existing infrastructure within the proposed closing areas which is vital to the City's fire protection services and water service for several apartment buildings on the east side of Queen Street. 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 part of the public lane east of, and parts of Century Street east and south of, 243 Queen Street proposed under DAC 4/2022 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

The McGowan Russell Group Inc., on behalf of the Owner of 243 Queen Street, has submitted an application to close for purchase part of the public lane east of, and parts of Century Street east and south of 243 Queen Street shown illustrated and identified on Misc. Plan No. 15838/1 (attached as Appendix A), and on the aerial snapshot of the proposed closings areas (attached as Appendix B). The closing and purchase will facilitate development and construction of security fencing and gates to improve safety of the residents of 243 Queen Street and to protect their private property and parked vehicles from vandalism and theft.

There is existing infrastructure within the proposed closing areas which is vital to the City's fire protection services and water service for several apartment buildings on the east side of Queen Street. Because of this, the Public Service does not support the proposal as detailed in the Administrative Comments (attached hereto as Appendix C).

Manitoba Hydro, Centra Gas, BellMTS, Bell Canada, Canadian Pacific Railway, Shaw Cablesystems, TC Energy, Fibre.Ca Inc., Crown Pipeline Ltd., have indicated that they have no concerns with the proposal. Rogers Communications, Imperial Oil, Canadian National Railway Company, Telus Communications, and Teraspan Networks did not respond to the request for comment on this application.

Plan 1079, registered in the Winnipeg Land Titles Office on June 21, 1906, opened the public lane. Pursuant to By-law No. 202 adopted on May 24, 1962, Plan 7918 was registered on June 26, 1962 and opened Bradford Street immediately east of the public lane. By-law No. 446 was adopted on July 11, 1963 and Plan 8335, registered on September 17, 1963 opened the land immediately adjoining on the south side of 243 Queen Street as public street but did not name it. On July 22, 1971, Council passed By-law No. 1858 renaming Bradford Street and the public street to Century Street.

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

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 closings do not contravene OurWinnipeg or the Complete Communities Direction Strategy.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Existing trees within the proposed closing area identified as part of Century Street to the south would need to be protected to support the City's commitment to the Winnipeg Climate Action Plan.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

N/A

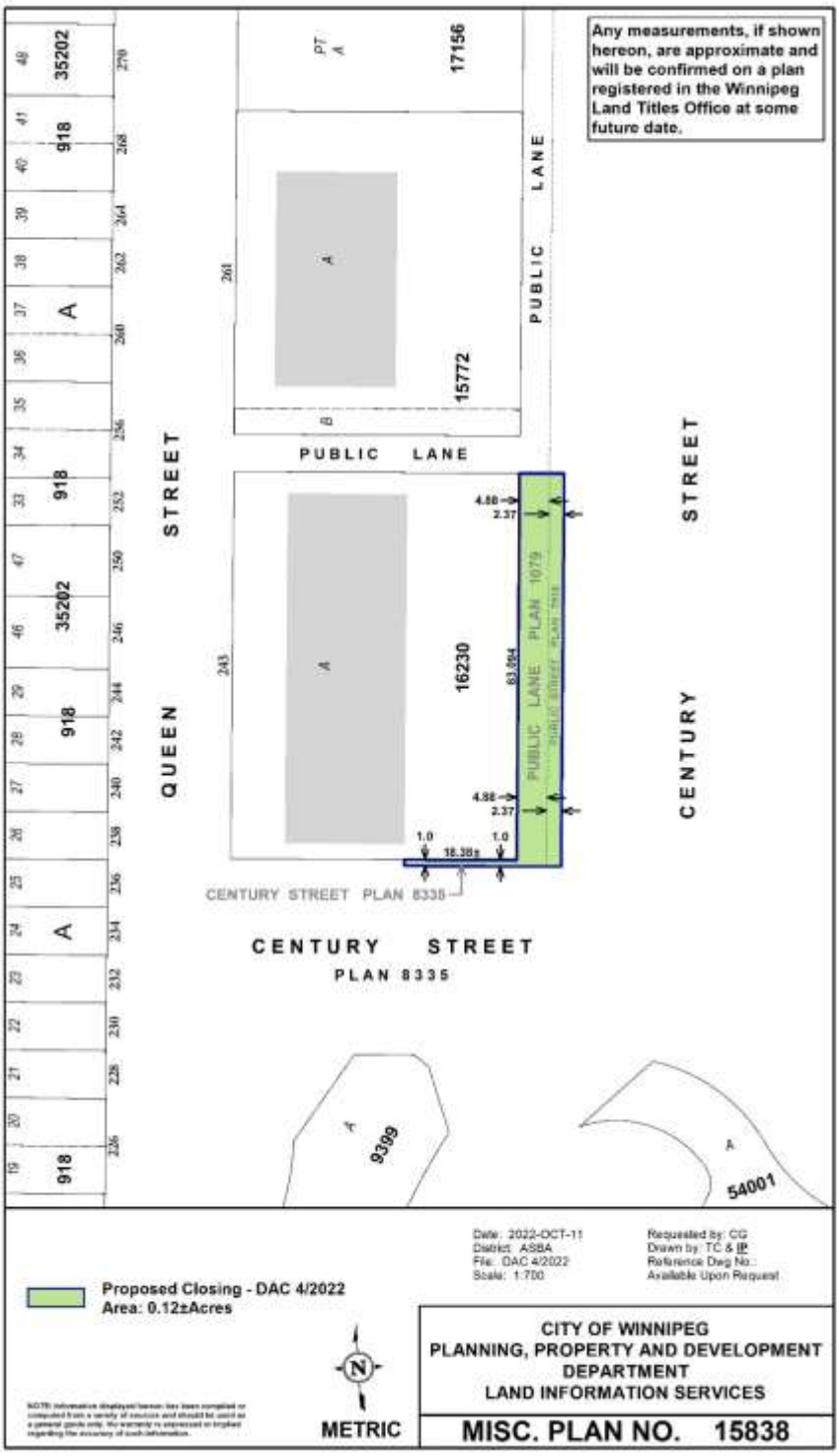
SUBMITTED BY

Department: Planning, Property and Development Department
Division: Real Estate and Land Development
Prepared by: Catherine P. Gagnon
Date: October 6, 2022
File No: DAC 4/2022

Attachments:

APPENDIX A - Miscellaneous Plan 15838
APPENDIX B - Aerial Diagram showing the proposed closing areas
APPENDIX C - Administrative Comments

APPENDIX A – MISCELLANEOUS PLAN 15838/1



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 (DASSF or DAPS) proposing a plan of subdivision that creates a single lot or a plan of survey that creates a single parcel to facilitate consolidation of their adjacent holding with the portions of the rights-of-way being closed.

- The Purchaser(s) or assignee(s) is responsible for obtaining approval and meeting any necessary conditions in respect of the above noted Development Application.

- The Purchaser(s) or assignee(s) 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 and conveyance of the p public rights-of-way.

- 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.

Public Works Department

- There must be no fixed object within 3.5 metres from the face of curb including the existing chain link fence. Installation of additional trees or other fixtures within the proposed closing areas is prohibited.

- If removal of any of the existing trees immediately adjacent to the proposed closing areas (the “City trees”) be required, the Purchaser(s) or assignee(s) must comply with the City’s Tree Protection Specifications and must consult with the Urban Forestry Branch prior to removal. The Purchaser(s) or assignee(s) may be required to compensate the City for any damage to, loss of or removal of the City trees.

Water and Waste Department

The Department does not support the closing because:

(i) infrastructure vital to the City's fire protection and water services to many of the properties on the east side of Queen Street is located within the proposed closing areas; and

(ii) garbage and recycling trucks contracted by the City drive through the property at 243 Queen Street to facilitate collection of refuse and recycling, exiting via the adjoining public lane. Backup and/or turnaround within that private property is not an option. The proposed closing could result in the City no longer being able to provide these services to 243 Queen Street.

However, if the closing is approved and the land sold:

- the existing catch basin 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.

- no structures, fencing, permanent works will be permitted within 8 metres of the centreline of the watermain located within the closing areas.

- the Purchaser(s) or assignee(s) will need to provide easements as required by and to the satisfaction of the City. The Department notes that an easement to be not less than 15 metres from the private property line will be one such requirement.

- a condition of a related agreement will stipulate that any damage to, or repair, removal, or replacement of permitted structures including but not limited to fencing, installed within the closing areas arising out of the City's performance of works related to the City's infrastructure will be at the Purchaser(s) or assignee(s) sole cost and effort.

- removal or relocation of any of the infrastructure required as a result of the proposed closings will be at the sole expense of the Purchaser(s) or assignee(s).

- the Purchaser(s) or assignee(s) must make alternative arrangements, at its sole cost, for continued garbage and recycling collection for 243 Queen Street.

The Department advises that the closing areas are located within a Combined Sewer District, subject to Environment Act License No. 3042.

Easements Requirements

Manitoba Hydro, Centra Gas and Shaw Cable have each identified services within the closing areas.

Easements for any and all facilities as noted above (the "facilities") will be required.

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