

# Request for Decision



To: Regular Meeting

From: **Development and Planning**

Date: July 11, 2022

Subject: Highway Closure and Disposition 21st St first three readings

Recommendation: **THAT Council gives first, second and third readings to the LANE CLOSING REPEAL BYLAW No. 936-R, 2022;**

**THAT Council gives first, second and third readings to the “21st and 22nd St Subdivision Road Closure and Disposition Bylaw No. 2092, 2022”;**

**THAT Council direct Staff to publish a Community Charter section 40 Notice of the Road Closure and removal of Highway Dedication;**

**and THAT Council direct Staff to complete the land disposition to transfer the 234.1 m2 portion of closed road shown on Plan EPP122288 to CHAMPLAIN HOLDINGS INC., INC. NO. BC1095531 in exchange for the funds, charges, and rights described in the September 20, 2021 Report referred to by Resolution # R217/21/09/20, once the road closure and disposition bylaw No. 2092, 2022 is adopted subject to satisfaction of all conditions precedent and all other terms agreed to in a Purchase and Sale Agreement.**

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## Purpose

For Council to consider the terms of a highway closure and disposition for a proposed development located on 21st Street.

## Background

On May 6th, 2021, staff received pre-application materials for the development of 12 vacant parcels located south of 68th Avenue, between 21st and 22nd Street. Upon further review of the proposed site plan, it was revealed that a higher density pocket neighbourhood design could be achieved by consolidating the 12 parcels and a public laneway bisecting the site.

At the Regular Meeting of Council on July 12th, 2021, Council directed staff to initiate negotiations with the developer for a land swap. The arrangement outlined in the report to Council was to trade the bisecting laneway for a utility, active transportation, and emergency access lane across the north portion of the developer's lands. The intent of this arrangement was to allow for the site to be consolidated into one large parcel,

thereby offering a more efficient site design, as well as provide for fire access to the neighbouring property to the north and the hydrant located along 22nd Street.

### Fire Access

At the Committee of the Whole Meeting on August 16th, 2021, the developer made a presentation to Council as a delegation to request the purchase of the bisecting laneway in exchange for a utility right of way across the northern portion of their property. At the Regular Meeting of Council immediately following, Council reiterated their resolution for staff to continue negotiations with the developer, in an effort to preserve fire access. In a staff meeting with the developer on August 17th, 2021, the developer proposed a slight alteration to the site plan such that a utility right of way would be registered across the northern portion of the parcel, and fire access to the neighbouring property to the north and the hydrant on 22nd Street could be provided from within the proposed development via rollover curbs and a gate. This arrangement was subsequently approved by the Fire Chief.

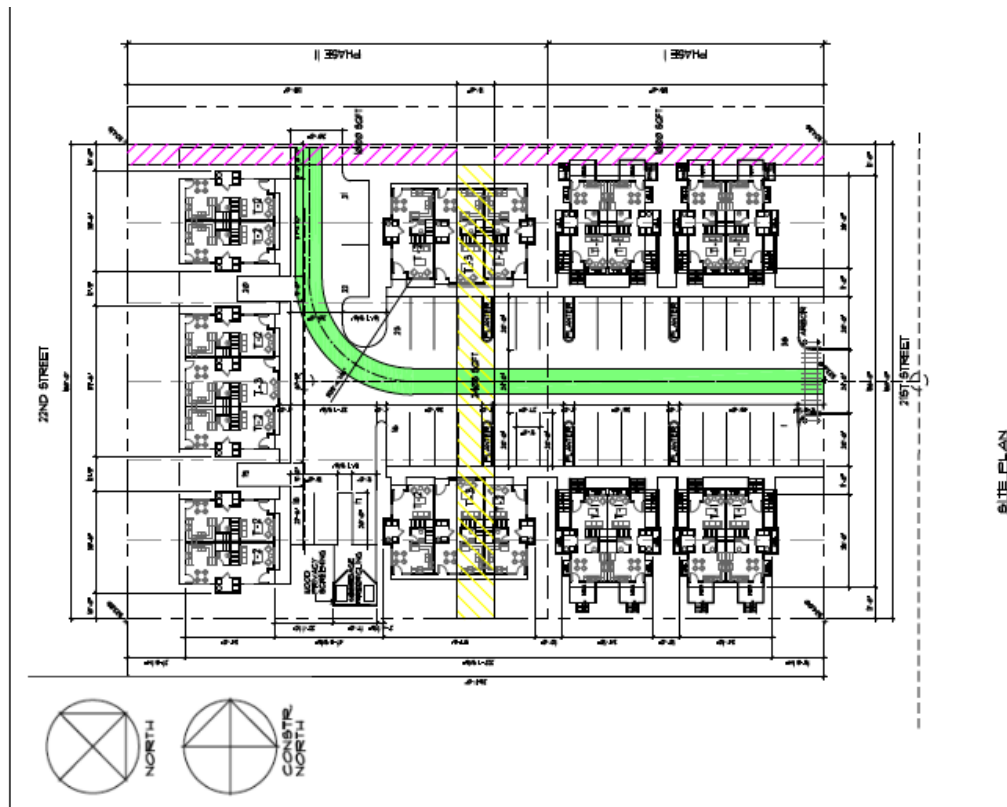


Figure 1: Site Plan showing Statutory Right of Way Areas and laneway area in question.

Two right of way areas for utilities and fire access are shown respectively in pink dash and green on Figure 1 above.

## Land Exchange

In exchange for the statutory right of way and covenant over the area of the utility right of way and a statutory right of way for the fire access, the City would trade the 234.1 m<sup>2</sup> area of the bisecting laneway to the developer. The City would also collect monies for the remaining area of the bisecting laneway, in the sum of \$3236.79 for 408 square feet (37.9 m<sup>2</sup>), as suggested by the developer. This agreement was reviewed by a professional third-party appraiser to ensure fair market value, resulting in assurance that there is not assistance to business.

The 234.1 m<sup>2</sup> laneway to be closed is shown in yellow on Figure 1 above and in **bold** outline on Explanatory Plan EPP122288 in Figure 2 below:

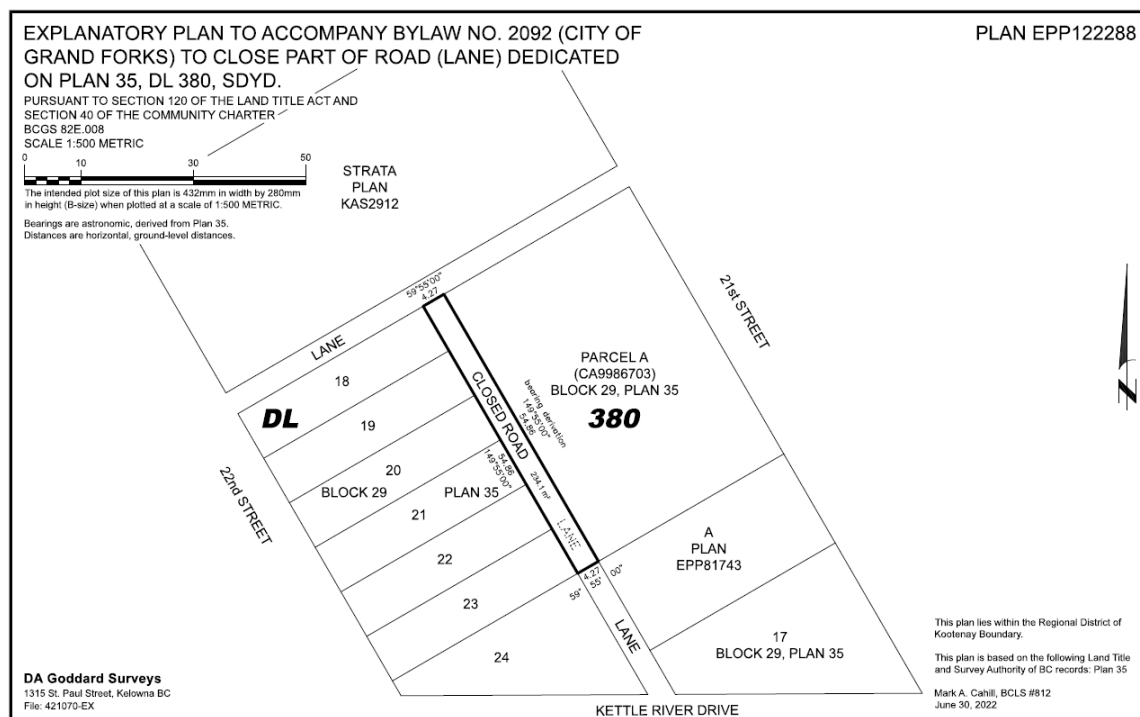


Figure 2: Explanatory Plan EPP122288 showing laneway to be closed.

To be clear, the laneway across the northern portion of the property will not provide vehicle access to 22nd Street with this arrangement; it will accommodate an existing waterline. Further, the existing legal public right of way for the laneway between 21st and 22nd Streets will remain on the grassy area north of the physical roadway.

Upon further consideration by staff and the developer, consensus is that this arrangement is highly agreeable to all parties. An agreement for the land exchange allows the developer to consolidate their parcels and fully develop the subsequent parcel.

At the Regular Meeting of Council on September 20<sup>th</sup>, 2021, the following resolution was carried:

**Resolution #: R217/21/09/20**

**MOVED/SECONDED**

**THAT Council approves the general terms of the land disposal as described in this report and directs staff to continue with the public process.**

**Carried**

The General terms for the land disposal are listed in the September 20, 2021, Report referred to by Resolution #: R217/21/09/20, and include the following:

- 1) That a 2000 square foot (185.8 m<sup>2</sup>) Utility Right of Way be registered across the northern parcel line of the consolidated parcel for the purposes of utility access for maintenance and emergency work, as shown in pink dash on Figure 1, and that a Covenant be registered on title to ensure unimpeded access to utilities.
- 2) That the City collects from the developer the sum of \$3236.79 for the remaining 408 square feet (37.9 m<sup>2</sup>) of laneway.
- 3) That a Statutory Right of Way (SRW) be registered across the property for the purposes of securing emergency access, as shown in green below in Figure 1, and that a Covenant be registered on title to prohibit building in or the blocking of the SRW. This will also ensure that the City's liability is protected in case property must be removed.
- 4) That the SRW be indicated as a fire lane through the use of painted indicators and signage.
- 5) That the agreement include a right to purchase back the laneway should the developer not proceed with the proposed development.

**Land Disposal Progress**

Staff and the Developer have worked to continue to advance the process for the land disposal.

Public Notice of the proposed disposition of the bisecting laneway was published in the Grand Forks Gazette on September 8 and September 15, 2021, to meet legislated public notice requirements for disposition of City owned land. No commentary, feedback or other communications from the public was received in response to the published Public Notice.

The terms for the two statutory rights of way and covenants have been prepared and agreed to between City Staff and the Developer with input and advice from the City's and the Developer's respective lawyers. The Developer's lawyer has communicated that they are in the process of preparing the Land Title Office registration forms for signature of the City and eventual registration of those statutory rights of way in the Land Title Office.

On June 22, 2022, the Developer registered the first stage of the planned consolidation, by consolidating the eastern 6 parcels of the lands (former lots 9-14) into one parcel (Parcel A).

### **Road Closure Bylaws**

For the bisecting laneway to be transferred to the Developer and to facilitate the planned development of the proposed consolidated parcel, the road dedication of that land must be removed, the road closed, and title must be raised for the bisecting laneway land. The BC *Community Charter* includes specific procedures for selling undeveloped road (highway) areas. A bylaw is required to close all or part of a highway and to remove the "road" dedication status of that highway.

Before adopting the road closure bylaw, Council must give notice of its intention in accordance with section 94 of the *Community Charter* and provide an opportunity for persons who consider they are affected by the bylaw to make representations to council. Council must also provide notice to the operators of utilities whose transmission or distribution facilities or works the council considers will be affected by the closure. Once the Notices have been advertised as required, the bylaws can be adopted. The proposed road closure bylaw will return for consideration of adoption following the public notice period.

Following adoption, copies of the bylaws must be filed at the Land Title Office (LTO). Finally, land title to the former road area may be issued to the City and the transfer completed. Sale of the closed laneway roads will be conditional on adoption of the required road closure and highway dedication removal bylaw.

A previous bylaw, THE GRAND FORKS LANE CLOSING BY-LAW No. 936, 1975, was adopted on June 17, 1975, which enacted that the Mayor and City Clerk were authorized and empowered to petition the Province to abandon the laneway and vest title in the name of Wan-Ken Developments Ltd. However, the petition was not successful as the title remained in the name of the City. Bylaw No.936, 1975 must be rescinded in advance of adoption of the proposed road closure and dedication removal bylaw.

Staff have worked with the City's solicitor to identify the correct processes for these actions as described under the Tentative Timeline heading.

## Point of Decision

Council's point of decision currently is whether to further advance the land disposition of the bisecting laneway by:

- Giving first, second, and third readings to the LANE CLOSING REPEAL BYLAW No. 936-R, 2022;
- Giving first, second and third readings to the "21<sup>st</sup> and 22<sup>nd</sup> St Subdivision Road Closure and Disposition Bylaw No. 2092, 2022";
- Directing Staff to publish a *Community Charter* section 40 Notice of the proposed Road Closure and removal of highway dedication;
- Directing Staff to prepare the Purchase and Sale Agreement with CHAMPLAIN HOLDINGS INC., INC.NO. BC1095531 for purchase and sale of the 234.1 m2 portion of closed road shown on Plan EPP122288; and
- Directing Staff to complete the land disposition agreement to transfer the 234.1 m2 portion of closed road shown on Plan EPP122288 to CHAMPLAIN HOLDINGS INC., INC.NO. BC1095531 in exchange for the funds, charges, and rights described in the September 20, 2021 Report referred to by Resolution # R217/21/09/20, once the road closure and disposition bylaw 2092 is adopted.

## Tentative Timelines

### Repeal Bylaw

Activity	Date (2022)
Staff review document initiated	Jun 22
Referral (Internal) sent to Staff	Jul 30
Referral (External) sent to agencies - utilities	Jul 30
RFD for 1 <sup>st</sup> , 2 <sup>nd</sup> & 3 <sup>rd</sup> readings of Repeal Bylaw	Jul 11
Referrals (Internal & External) comments back by	Jul 29
RFD for adoption	Aug 15
Implementation	Aug-Sep

## Road Closure and Land Disposition

Activity	Date
Gazette ad #1 published for Notice of Disposition of Road area	Sept 8 2021
Gazette ad #2 published for Notice of Disposition of Road area	Sept 15 2021
Resolution carried for land disposition	Sep 20 2021
Staff review document initiated	Jun 22 2022
Referral (Internal) sent to Staff	Jun 30 2022
Referral (External) sent to agencies / Notification of utilities companies	Jun 30 2022
RFD for 1 <sup>st</sup> , 2 <sup>nd</sup> & 3 <sup>rd</sup> readings of Road Closure & Disposition Bylaw	Jul 11 2022
Gazette ad #1 published for road closure bylaw	Jul 20 2022
Gazette ad #2 published for road closure bylaw	Jul 27, 2022
Written comments/feedback from public	Aug 2, 2022
RFD for adoption	Aug 15, 2022
Implementation	Aug-Sep 2022

## Benefits or Impacts

### General

The first three readings of the Subdivision Road Closure and Disposition Bylaw and its future adoption, and completion of the related processes outlined in this report, will allow staff to proceed with completing the disposition of the laneway.

### Finances

There are no significant financial implications resulting from this decision.

### Strategic Impact

- Support initiatives to revitalize, beautify, and improve Grand Forks

### Risk Assessment

#### Compliance:

- Local Government Act Division 6
- Community Charter s.40 & s.94

#### Risk Impact:

Low

#### Internal Control Process:

Staff will continue to follow the legislated requirements for the road closure and land disposition, with advice from legal counsel as appropriate.

## **Next Steps / Communication**

The proposed road closure bylaw and the lane closing repeal bylaw are returning for consideration of adoption following the public notice period, and notification of utility companies. Sale of the closed laneway is conditional on adoption of the required road closure bylaw. Following adoption, a copy of the road closure bylaw will be filed at the Land Title Office (LTO), land title to the former road area will be issued to the City and transfer completed.

## **Attachments**

- 1) Property Maps
  - 2) Bylaw No. 2092
  - 3) Lane Closing Repeal Bylaw No. 936-R
  - 4) Lane Closing Bylaw No. 936
  - 5) Utilities SRW
  - 6) Emergency Access SRW
  - 7) Explanatory Plan EPP122288
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## **Recommendation**

**THAT Council gives first, second and third readings to the LANE CLOSING REPEAL BYLAW No. 936-R, 2022;**

**THAT Council gives first, second and third readings to the “21st and 22nd St Subdivision Road Closure and Disposition Bylaw No. 2092, 2022”;**

**THAT Council direct Staff to publish a Community Charter section 40 Notice of the Road Closure and removal of Highway Dedication; and**

**THAT Council direct Staff to complete the land disposition to transfer the 234.1 m<sup>2</sup> portion of closed road shown on Plan EPP122288 to CHAMPLAIN HOLDINGS INC., INC. NO. BC1095531 in exchange for the funds, charges, and rights described in the September 20, 2021 Report referred to by Resolution # R217/21/09/20, once the road closure and disposition bylaw No. 2092, 2022 is adopted subject to satisfaction of all conditions precedent and all other terms agreed to in a Purchase and Sale Agreement.**

## **Options**

1. THAT Council gives up to three readings to any or all of the bylaws (No. 936-R, 2022; No. 2092, 2022), and directs staff to publish public notice of the proposed road closure and complete the disposition once the road closure and disposition bylaw No. 2092, 2022 is adopted.
2. THAT Council elects not to proceed with the two bylaws and the proposed disposition of the laneway.