



ADMINISTRATIVE REPORT

Report Date: March 27, 2012
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VanRIMS No.: 08-2000-20
Meeting Date: April 17, 2012

TO: Vancouver City Council

FROM: General Manager of Engineering Services in Consultation with the Director of Legal Services

SUBJECT: Establishment as Lane of a Portion of 2791 West 36th Avenue

RECOMMENDATION

THAT Council authorize the Director of Legal Services in consultation with the General Manager of Engineering Services to proceed with the necessary arrangements to transfer to the City, at no cost to the City, and establish as lane the north 10 feet of 2791 West 36th Avenue (legally described as [PID: 013-935-208] Lot 32 Block 29 District Lot 2027 Plan 2283), the same as shown hatched on the sketch attached hereto as Appendix "A" (the "Lane Portion").

If Council approves this report, the Formal Resolution to establish the Lane Portion as lane will be before Council later this meeting for approval.

REPORT SUMMARY

This report seeks Council authority to arrange for the transfer of the Lane Portion to the City, and to establish the Lane Portion as lane pursuant to Section 291 of the Vancouver Charter.

Since there is an access easement registered on the title of 2791 West 36th Avenue ("Lot 32"), the Lane Portion cannot be dedicated as lane under the Land Title Act unless the charge holders consent to the dedication. The charge holders have declined to provide their consent, and therefore as an alternative it is proposed that the Lane Portion be established as road under the Vancouver Charter.

Over the years there has been neighbourhood objection to the opening and construction of the entire lane within this block and Council has made specific decisions, as noted below, with respect to lane access for specific lots on the block. The recommendation in this report seeks to authorize the lane establishment only at

the rear of Lot 32 to secure lane access for the development proceeding on that site. The General Manager of Engineering Services does not intend to open and construct the entire lane in the near future.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

The authority for establishing streets and lanes is set out in Section 291 of the Vancouver Charter.

On January 14, 1993 Council adopted recommendations to permit the construction of a garage on the rear 10 feet of 2732 West 35th Avenue, and to require the owner to grant to the City an option to purchase the said rear 10 feet for future lane purposes.

On December 14, 1989 Council approved a recommendation that the owner of 2744 West 35th Avenue (Lot 21, now 2738 W 35th Avenue) not be entitled to use the unopened lane at the rear of his property and the adjacent property for access to his property.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The General Manager of Engineering Services recommends approval of the foregoing.

REPORT

Background/Context

Under Development Permit DE414502, the owner of 2791 West 36th Avenue (Lot 32) is constructing a single family dwelling with a detached garage at the rear, having vehicular access from the lane. There is an existing unopened and un-constructed 10 foot wide lane to the north of Lot 32 and as a condition of permit issuance Engineering Services sought the dedication to the City of an additional 10 feet of lane (the Lane Portion), to complete the standard 20 foot lane width. Through the development process a new lane will be constructed at the rear of the subject site but not beyond.

The Lane Portion is encumbered with an access easement (Easement 26751H), which was registered on the title of Lot 32 in 1924 in favour of the owners of Lots 19 and 31 (2768 West 35th Avenue and 2779 West 36th Avenue, respectively). As such, Engineering Services required as a condition of permit approval that the owners of Lot 32 obtain consent from the owners of Lots 19 and 31 for the release of Easement 26751H, which would enable the registration of the subdivision plan for the lane dedication. The owners of Lots 19 and 31 have declined to provide their consent to the release of the easement agreement.

As an alternative to dedication of the Lane Portion by subdivision plan, and to still comply with permit requirements, the owners of Lot 32 seek to transfer the Lane Portion to the City for establishment as lane under Section 291 of the Vancouver Charter. The transfer of the Lane Portion to the City and its establishment as lane, as opposed to dedication under the Land Title Act, will accommodate the retention of the access easement while still providing the lane widening.

As shown in Appendix A, the City over the years has acquired portions of lane within the block bounded by MacDonald and Trafalgar Streets, and West 35th and West 36th Avenues, either by way of dedications as lane pursuant to the Land Title Act (Subdivision) or by lane establishment pursuant to the Vancouver Charter (a Council Resolution under Section 291). Only the north-south portion of lane in this block, adjacent to 2708 and 2732 West 35th Avenue, and 5151 and 5161 Trafalgar Street, has been opened and constructed as lane. The east-west portion of the lane will remain un-constructed other than for the lane adjacent to the new development.

Previously the neighbourhood has objected to the opening and construction of the entire lane. In November 1989 in response to a request to open part of the lane by the then owner of Lot 21, the neighbourhood submitted a petition signed by most of the owners at the time stating that they "are strongly in favour of preserving the security and privacy afforded by the present absence of any east-west access in the block". Many of those owners are still residents of this block. As noted above, in 1989 Council supported not opening the lane at the rear of Lot 21.

On January 14, 1993 Council adopted the recommendation of the Standing Committee on Planning and Environment to allow the owner of Lot 22 (2732 West 35th Avenue) to construct a garage on the south 10 feet of Lot 22 in contravention of the corresponding Zoning regulations which require a building setback based on the ultimate centre line of the southerly adjacent lane. Approval of that recommendation was subject to registration of an option to purchase in favour of the City for lane purposes over the south 10 feet of Lot 22. Under the option provisions, the City will only exercise the option to acquire the south 10 feet of Lot 22 if the City opts to open and construct the east-west lane within the subject block.

We emphasize that the decisions noted above were with respect to mid-block lots whereas the portion of lane that is the subject of this report is at the west end of the block at MacDonald Street.

Strategic Analysis

The City continues to acquire property for lane purposes wherever possible. Over the past decades Directors of Planning and City Engineers have shared an opinion that site access should be provided from a lane where possible to protect the street front character, improve comfort and safety for pedestrians and cyclists and in more recent years improve viability of laneway housing development of the rear yard.

Establishment as lane under the Vancouver Charter, as opposed to dedication as lane under the *Land Title Act*, will allow the access easement to remain as a charge on the title of the Lane Portion. The charge does not inhibit the use of the Lane Portion by the City for lane purposes. Establishing the Lane Portion as lane will secure lane access to the development at 2791 West 36th Avenue in accordance with City standards. There are no near term plans to open and construct the balance of the lane.

*Implications/Related Issues/Risk (if applicable)**Financial*

There are no financial implications. The Lane Portion will be transferred to the City at no cost to the City and the applicant will be responsible for any costs associated with land survey and land title registration.

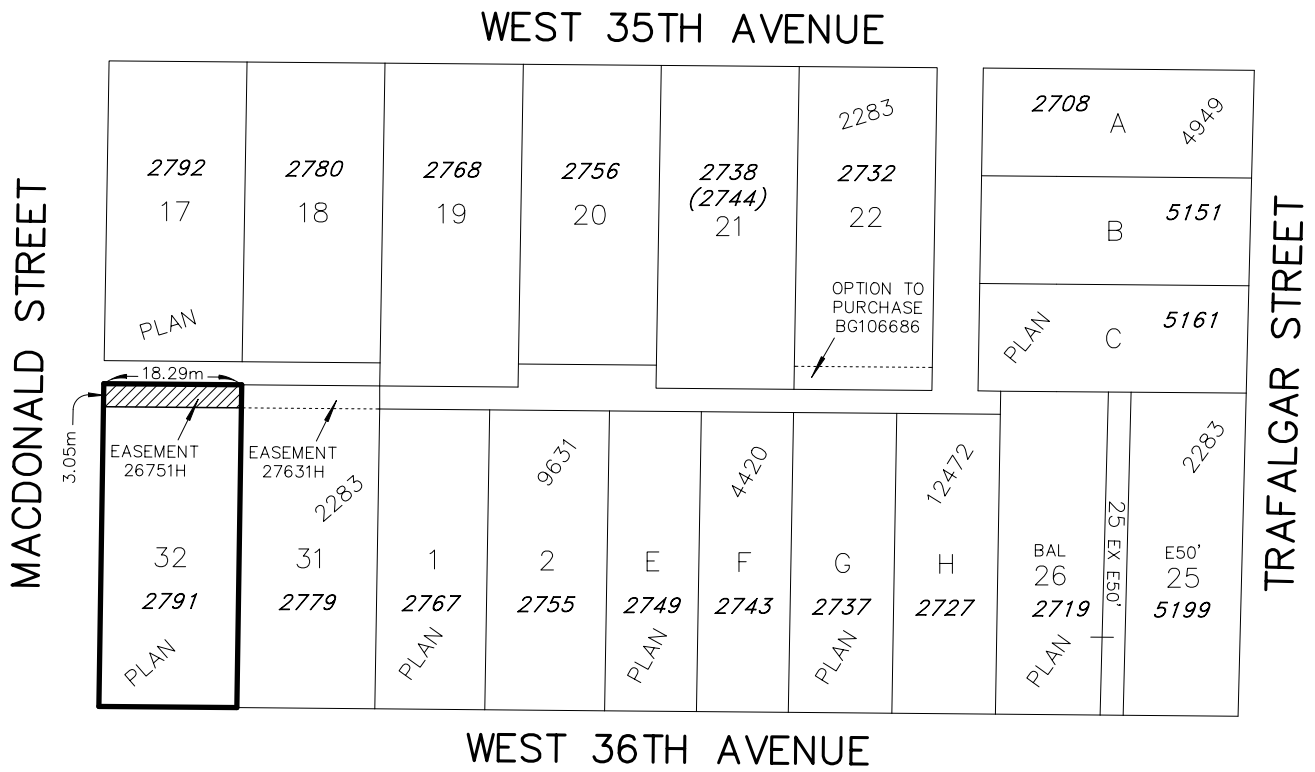
CONCLUSION

The General Manager of Engineering Services, in consultation with the Director of Legal Services, recommends establishment of the rear 10' of Lot 32 as lane under the Vancouver Charter, which will allow the registered access easement in favour of two neighbouring properties to remain on title. This charge does not inhibit the use of the Lane Portion by the City for lane purposes.

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SCALE 1:750



PORTION OF LOT 32 TO BE
ESTABLISHED AS LANE
("LANE PORTION")